Supreme Court, U.S.
FILED

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No.

In the Article III

Supreme Court of the United States

"In re [Mr. & Mrs. QUINN OWEN, & GFT; et al.]",

Petitioners,

V.

USDA/USDI-REGION-6, & USDJ-ED OF WA; et al.,

Respondents.

ON PETITION FOR A WRIT OF MANDAMUS TO THE U.S.D.A. & U.S.D.I. REGION-6, & TO THE U.S.D.J. EASTERN DISTRICT OF WASHINGTON

PETITION FOR WRIT OF MANDAMUS

Mr. & Mrs. Quinn R. Owen
Petitioners of Record
Golden **F**ire **T**ech (**GFT**)
33014 B, Hwy. 97,
Oroville, WA 98844
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137 PP

COMMON-LAW QUESTIONS PRESENTED

1. Do due process and/or constitutional requirements fairly made a part of a Common-law claim not colorable at Federal-law but colorable in Equity and at Common-law, mandate that it further be colorable at Common-Equity as Federal-law?

2. In cases at Common-law do due process and/or constitutional requirements mandate that the Peoples' *retained right of trial by jury shall be preserved, and be according to the rules of the Common-law* in all jurisdictions? And are non-trial venues jury exempt?

3. Do the attorney-client enumerated right privileges of security in *their* information/papers and fettering due process, disparage WA Citizens' Common-law *retained* right to full disclosure of public or heritage information? And is this abuse of privileges criminal?

4. In a case at merged Common-law with Equity should the order of the court be vacated when the court's enumerated right to rule/extend judicial power is construed to disparage an individual right *retained* in Equity & Common-law by People of clean hands?

5. Do ethical or equitable customs with a determined or established memory of 60 years;
I. Constitute as Common-laws?
II. Constitute as rights *retained* by the People?
III. Constitute as individual rights that are to be protected and maintained by the governments?

6. In Washington's jurisdiction of merged Common-law with Equity, do due process and/or constitutional requirements mandate that the judicial power shall be extended/applied to all cases, in Law and Equity and/or in Constitutional-law with Equitable Remedies?

PARTIES TO THE PROCEEDING

Petitioners: Mr. & Mrs. Quinn R. Owen sole proprietors of Golden Fire Tech (GFT) and [**if**] GFT Associates in Common; **are granted a mandamus that compels Gov. duties *according to the rules of the Common-law* with Equitable Remedies,** then the Remedy Mandamus should order GFT's contracted management of idle treasury values for the indemnity of all Common-law and/or Volunteer Firefighters who have been USDA defrauded out of their equitable right to a fair equipment and supply replacement rate, and/or denied their Common-law Assumpsit right to fair compensation for their unpaid services of fire training, fire preparedness, and/or on fire call services.

Respondents, Functions or Offices in Bold:
United States Department of Agriculture- Washington District of Colombia, **Office-of-General-Counsel Kenneth E. Cohen,** for **Secretary Ann Veneman;**

AND: USDA- **Region-6-Fire/Aviation-Management-Directors Mike Edrington or Laurie Perrett** who imposes Fire Managements' unconscionability polices contracted by **Region-6-Property-and-Procurement-Directors Mike Wolf or Craig D. Phillips;**

AND: U.S. Department of Justice- **Eastern-District-of-Washington-Court-Judges Justin L. Quakenbush;**

AND: USDJ- **Eastern-District-of-Washington-U.S.-District-Attorneys James A. McDevitt;**

AND: USDJ- Federal Bureau of Investigation- **ED-of-WA-Supervisory-Resident-Agents Egdon S. Dezihan;**

AND: United States Department of Interior-
Secretary Gale Norton as a Stakeholder Respondent.

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Petitioners Mr. & Mrs. QUINN R. OWEN & GFT et al., Request of this Court to ANSWER 1-7; And Issue a Writ of Mandamus to USDA/USDI-Region-6, and to USDJ-ED of Washington, that Indemnifies All in Common, and Compels the Gov. Duty to Protect & Maintain Individual Rights be Correctly Performed *According to the Rules of the Common-law* with Gov. Power in all Cases, Extended and/or Applied in Constitutional-law with Equitable Remedies. [*See* A-66]

CR-20 JUSTIFIED WRIT OF MANDAMUS

The Supreme Court's appellate jurisdiction will be aided by granting the Writ of Mandamus owing to reducing the number of cases that are unsettled and appealable owing to the lower courts' unconstitutional screening and/or poor rulings that are without a *ratio decidendi* or reason of Constitutional-law with Equity.

The exceptional circumstances of screening with the District's Court's improper intercession, and it's prejudiced denial of due process *according to the rules of the Common-law,* all warrant the exercise of this Court's discretionary powers.

Relief is not available in any other court *due to*: **1.** This Court's commanding powers necessary for relief from the USDA-Region-6's unconstitutionally imposed cover up, imprisonment and thiefdom crimes. **2.** This Court's commanding powers necessary for relief from the ED of WA USDJ's unconstitutionally imposed bad faith process of prejudice, oppositions, and screening that denied relief as documented herein.

OPINIONS BELOW

This is a case at Common-law for judgement in ***Assumpsit*** to fairly compensate all unpaid fire service from the U.S. Treasury as the USDA/USDI generally compensation themselves, & for equitable remedies to the oppressed Common-law Right to Fight Wildfires.

This case was first claimed as a loss of revenue owing to GFT being denied the liberty of release to Montana during the extreme fire season of 2000, and thus a loss of partial compensation for their 13 years of unpaid fire security services. All *due to* Region-6 refusing to share GFT's equipment & personnel with other Forests in need. All contrary to the rights of Liberty, Privileges & Common-law. [*See* 1st policy A-45]

***On Oct. 17, 2000,** Okanagan-FFS C.O. Mark T. Phillipp considered (pursuant FAR) GFT's uncertified letter for compensation, and denied it stating; *"it is likely your engine was not selected due to price."* Mark omitted the fact that older and higher priced engines were selected for Region-6, all during GFT's repeated requests for release. Mark ended with:

> "**Your responsiveness, and willingness to provide equipment when requested in the past is greatly appreciated. Further it is hoped that you will continue your support in the future.**" [*See* A-55]

***On Dec. 13, 00**, USDA-Pacific Northwest Region-6 placed GFT's Nov.15, 2000, certified claim for proper review under the *Torts Claim Act*. All by **R**egional **P**rogram **M**anager Craig D. Phillips who cited:

> "The EERA is not binding on either party for dispatch. Further; **FAR 16.702(a)** description, states *"A basic agreement is **not** a contract."* . . . This appeal falls within the preview of the *Tort Claims Act of 1948, as amended*. . . . I have forwarded your request to our claims specialist for review and any action under the *Torts Claims Act*." [*See* A-23]

On March 30, 2001,** the D.C. USDA confirmed **FTCA** subject matter review with a letter by USDA Counsel Kenneth E. Cohen who stated: "Dear Mr. Owen: The claim submitted by you pursuant to the *Federal Tort Claims Act* ("FTCA***") . . . You are advised of your right to file suit in an appropriate United States District Court . . ." [*See* A-21]

On Nov. 29, 01,** ***FTCA subject matter review was further confirmed by USDJ ED of WA Assistant DA Frank A. Wilson who cited: ". . .The ***FTCA*** confers exclusive jurisdiction upon district courts over civil actions for money damages caused by the negligent or wrongful act or omission of any employee of the government acting within the scope of his or her employment under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. **28 U.S.C. # 1346(b)**. Actions brought under the ***FTCA*** are governed by the substantive law of the state in which the alleged tort occurred. *McCall v. United States Dept. of Energy*, 914 F.2d 191, 193 (9th Cir. 1990). Since the incident in which the plaintiffs' complaint is based occurred in Washington, Washington State law applies." (C.R. 4 at 4-5.)

On Jan. 24, 02**, the U.S. District Court arbitrarily removed the at Common-law case from the Common-law rules of the ***FTCA and from Washington law. All moved to the *Tucker Act* as if it were a suit of the ***Contract Dispute Act*** in the Court of Federal Claims that is without Common-law due process. All by law clerk James Raftery who with the signed approval of vacationing Judge Justin L Quackenbush, cited/stated;

"While the Government has not raised the following issue concerning this court's lack of jurisdiction over this contract claim, the court has the independent obligation to assure that jurisdiction does exist even though that issue has not been raised by the Defendants. *National Distribution Agency v. National Mut Ins. Co.,* 117 F.3d 432, 433 (9th Cir. 1997) . . . Here because it appears likely that the Court of Federal Claims would dismiss this action, this transfer is not in the interest of justice." [*See* A-17 & 20]

When law fails a just claim the court's duty is to extend power in Equity and indemnify the injustice.

The court failed to address the at Common-law ***FTCA*** claim, as properly evaluated by RPM Craig Phillips. The court (without oral or open hearing) addressed the ***FTCA*** claim as if it were a contract claim under the ***Contract Dispute Act of 1978.*** The court erroneously addressed C.O. Mark Phillipp's FAR response to Owen's 9-27-00 Engine/Crew letter, which in uncertified violation of CDA **41 USC # 605(c)** was void. It was RPM Craig D. Phillips who with proper evaluation and determination authority, removed the uncertified request from the CDA appeal, and properly placed the preview & action of the 11/15/00 certified claim under the ***FTCA.*** [*See* A-15,22/23 & 53]

***On Feb. 15, 02 the District Court's** screening law clerk filed order as; ". . .Plaintiffs' Motion to Amend Ruling With Order for USDA to Negotiate & Settle All Issues Without Added Formal Procedure and to Order an Investigation into the Standing Allegations of Fraud(C.R.16) is **DENIED.**" [A-7-9]

***On Jan. 15, 03, the 9th Circuit's** law clerks filed the following not for publication MEMORANDUM;

"**The panel unanimously finds this case suitable for decision without oral argument. . . . The district court properly dismissed the Owens' action for lack of subject matter jurisdiction because the amount in controversy exceeds $10,000 and the Owens' claims, however characterized, are contractually based. . . . The district court did not abuse its discretion by declining, in the interest of justice, to transfer the action to the Court of Federal Claims. *See* **28 U.S.C. 1631**; *Clark v. Busey,* 959 F.2d 808, 813 (9th Cir. 1991) (affirming district court's refusal to transfer case that failed to state a colorable claim). **AFFIRMED.**" [*See* A-2]

ANALYSIS OF OPINIONS: The District and 9th Circuit opinions omitted the material point of law that **28 U.S.C. #1491** [*See* A-27/28] does **not list** USDA or USDI exchanges, it only lists/applies to express or implied contacts with military, aeronautics or space related exchanges that do **not** sound in tort.

USDA-FFS-Region-6 cited: "**FAR 16.702(a)** "A basic agreement is **not** a contract." As listed & FAR defined this claim does **not** fall under the *Tucker Act*. Thus the claim's gravamen is **not** contractual. [A-38] This claim's gravamen is torts violating Common-law Rights, with review falling only under the ***FTCA*** as the proper evaluation parties agreed. All torts owing to the USDA refusing to fairly share or compensate GFT for it's security, training and equipment services.

Pursuant to the verbatim wording of **28 #1346(b) (1)** this case's claim is colorable ***"in accordance with the law of the place",*** which is Common-law ***Assumpsit***. The courts' opinions affirm support only for legal binding contract claims that abate the **U.S. Amendment VII** right to trial *according to the* (good faith) *rules of the Common-law*. [*See* p24 & A-35, 38]

JURISDICTION

Jurisdiction in the District Court was properly Title invoked as **U.S. Article III**, with judgements filed on Feb 13, 2002, and Appeal on May 12, 2003.

Jurisdiction in the 9th Circuit was invoked as: "**U.S. Article III**: (JURISDICTION) *The judicial power of the United States shall be vested in one supreme court, and in such inferior courts . . .* This Appeal Court is one such inferior court vested as a judicial agent. [&] **28 U.S.C. #1295(a)**: The United States Court of Appeals for the Federal Circuit shall have exclusive jurisdiction—(2) . . ., . . .if the jurisdiction of that court was based, in whole or part, on section **1346** of this title, . . ."

The 9th Circuit reviewed under **28 U.S.C. #1291.**
On 5/30/2003 Petition for Rehearing was denied.
Jurisdiction in this Court is invoked under:
U.S. Article III. *The judicial power of the United States shall be vested in one Supreme Court, . . .*;
And is invoked under **28 USC #1651(a)** & **USC #2072**.

RELEVANT PROVISIONS INVOLVED—

-by misapplied or unconstitutional impositions of:
U.S. Article I #8, **U.S. Amendment** IV, & V; **28 U.S.C.** #1491, #1915A, #2402, and #2519.

-by misapplied or impositions contrary to laws of:
***Magna Carta's Petition of Right* (1628)**;
U.S. Articles III #1, III #2, IV #2, IV #4, & VI; **U.S. Amendments** I, V, VII, IX, and X; **WA Articles** I #1, #2, #3, #10, #21, #30 and #32; **RCW** 4.04.010; 9A.04.060; 9A.80.010; 42.17.251; 62A 1-103; 62A.1-201(36); 62A.1-207; & 76.04.177; **18 USC** #241; **28 USC** #453, 535, 547, 652, 1346, 1367, 1585, 1652, 1654, 1861, 1876, 2672/2677-**CFR**14.6; **41 USC** #605 (c); **FAR** 2.101, 16.702(a); **FRCP** 1, 16; & **FRE** 302.

STATEMENT OF THE UNTRIED CASE

Mr. Owen as other Common-law Citizens possess the farmer's/forester's infield experience of fabrication, repair, and operation of aircraft, trucks, tractors and water equipment, all relevant to Wildfire Suppression.

In 1986 Mr. and Mrs. Owen began work as volunteer rural firefighters in Okanagan County.

In 1988 Mr. and Mrs. Owen, as other Common-law Firefighters attended USDA-FFS's Guard School, who told them they were needed and would be used.

In 1988 — 1989 Mr. Owen met with various USDA-FFS supervisory personnel on security and proficiency issues and built a task group of Common-law Citizens with 7 Engines, 1 Tender, 1 Helicopter, and Caterpillar with Transport. Okanagan-FFS shared

the Task Group nationally and with inter-agencies. [*See* A-44/45]

On June 15, 1988 the (NWCG) National Wildfire Coordination Group issued it's Report of the National Engine Study citing the Wildfire Truck *Efficacy/Safety* Needs of Four Wheel Drive, Limited Slip, Stable High Ground Clearance, & Short Wheel Base. All added to high capacity/pressure & live reels.[A-42/43]

Later that year the Park Service implemented their *"Good ? for the Land Forest Fires"* with large scale *Fight Fire With Fire* tactics, which torched most of Yellowstone National Park, while inflating to tripling all of Fire Managements' relevant yearly incomes, despite the Congressional Investigation.

In 1990 new USDA-Region-6 Contract and Fire Management Officers decided that Okanogan-FFS would no longer find work for and/or aid in the dispatch of Private Foresters or Fire Crews. This subverted the Task Group's unity and forced the Owens with their 12 crew and 2 engines to latently call direct to the Forest in need, which cut their next 13 years of paying work down to approximately 10% of what it was with the USDA-FFS's aided dispatch. **Further;** Arbitrary contract officers practiced cutting the pay of agreed rates, all after faithful services.

In 1992 the (PNWCG) Pacific Northwest Wildfire Coordination Group-Region-6 entered into inter-agency agreements that separated from all other fire agreements, the attack services of Private Suppression Equipment and Crews. They also vacated all of the NWCG's Engine Safety Standards. [*See* A-45/46 & 60]

In 1993 the (PNWCG) denied all certified training for private sector personnel, unless as an individual you held the quid pro quo of an agency sponsor. In conjunction USDA-Region-6 imposed order/request numbers that prevented the initial attack response of Private Fire Suppression Equipment. [*See* A-47, & 65]

In 1994 the Petitioners listed a General Message of unity/equity, ignored by Fire Management.[A-48/49]

In 1998 Region-1 ordered GFT to Montana fires.

In 1998 — 1999 the Petitioners worked with the cooperation of *GM's Truck Group* on the *National Fire Protection Association's Task Group* to improve Engine Efficacy/Safety. Agents influencing Region-6 stated that they would go by their own policies. One of which was to down grade the GVW of Engines by 20% to limit suppression capacity. All in support of Fire Use for forest health? and/or *Let Nature Take Care of Its Self* policies. Without **uniform/efficacy** standards GFT's work with GM ended. [*See* A-50]

In 2000 GFT called various Montana Forests who referred GFT to the Equipment Desk at the *National Interagency Fire Center* who stated they had 210 outstanding Engine Orders, but that a new policy required GFT to first be released by name request from their Host Unit. GFT called Okanogan-FFS who said they could **not** answer GFT's name request, or dispatch GFT out of the area. All *due to* Region-6's new resource *prison* policy of FC 5100. [*See* A-51/52]

Part of GFT's crew went to Montana to hire on locally. All were denied *due to* the Host Unit policy.

Since mid 1990 GFT's Engines have been the only Private Engines based in the Oroville/Tonasket area.

GFT received no 93, 95, 99, 00, 02, and now by Region-6's oppressed Common-law National Standards GFT will receive no 03 fire income. The extremely long 2000 fire season was the first chance in 13 years for GFT's extended use, which would have allowed some compensation for GFT's unpaid preparedness labor, equipment replacement, supplies and faithful fire security/standby services. It was later learned that Okanogan-FFS despatched themselves to these same gainful over time/hazard pay fires.

[*See* A-53-56]

Fact: Region-6's Waterhandling Crews no-longer exist!

By 2000 USDA-FFS Region-6 contracting under the Fire Management umbrella of the PNWCG, had imposed contract requirements that denied or omitted Private Suppression Operators compensation for:
1. Yearly re certification of personnel and equipment;
2. Fire related equip. damage. **3.** Equipment updates;
4. Security standby time; **5.** Travel times; And
6. Denied them Fire Camp food and laundry services.

On July 10, 2001 four firefighters on the Thirty -Mile-Fire died. All after the request to dispatch Citizen Suppression Equipment (that could have easily put the fire out) was denied. All died in Okanogan-NF directly owing to Region-6's 2001 fraudulent use of their **Wildland Fire Implementation Plan** that deprives the liberty and lawful Common-law usage of Citizen Wildfire Suppression Equipment. [*See* A-56-59]
FACT: 85% of all rural/wildland fires are man made!

On Mar. 30, 2001, D.C. USDA** Counsel Kenneth E. Cohen denied the claim as without liability to the claimants and by citing *United States v. Orleans*, 425 U.S. 807, 813 (1976) that holds the U.S. as immune or above the law of the land, except for the ***FTCA's limited surrender. All contrary to **28 CFR #14.6, U.S. Article IV #4** Guarantee of Republican Gov. & **U.S. Amend. X** Reserved Powers, for the USDA's powers are **not** delegated by the Constitution. [A-21,29/30, 37]

On September 27, 01, the District Court's basis for jurisdiction over this Common-law action was properly invoked by GFT in the Title as **Article III**. The Petitioners also filed *Form 2. Allegation of Jurisdiction,* and invoked the relevant law/equity for the court's power to be extended in as: **U.S. Articles** III #2, IV #2; **Amendments** IX, X; **U.S.C.A. Title 18** #241; **28 U.S.C.** 1346(b) *Federal Torts Claim Act* as amended; **WA. Articles** I #2, #3; **RCWs** 4.04.010,

9A.80.010, 62A.1-103, 76.04.177; & ***Equity*** *the Only Common-law or Lawful Jurisdiction Over the People.* The Petitioners also under PROCEDURAL ISSUES invoked the due process rights of the ***Magna Carta*** and **U.S. Amendment VII**, to a jury trial with the at Common-law due process rights of oaths, and live cross examinations.

This case arose under U.S. Amendment IX as a liberty, and Common-law *right retained by the People's* custom of fighting wildfires with their private farming and/or forestry equipment.

This case also arose under U.S. Article IV #2 as a Common-law Privilege to share in the liberty of Wildfire Suppression, as is the custom *of Citizens in the several states*.

This case further stands under U.S. Amendment IX as a *right retained by the People's* Common-law of ***Assumpsit*** that warrants recovery of the Petitioners' fiscal property for services performed.

The Petitioners' property and liberties were all deprived by USDA Management, without **Amend. #V** due process of Common-law, and without **Amend. #X** powers delegated by the U.S. Constitution. [A-29/30]

***On Nov. 19, 2001, the Petitioners** requested a Common-law pretrial conference with USDJ ED of WA Assistant DA Frank A. Wilson, which he denied.

***On Nov. 29, 01, DA** James A. McDevitt's ratified *"Motion of the* [US] *to Dismiss, or in the Alternative for More Definite Statement and to Strike Redundant, Immaterial, and Impertinent Matters."*, was filed. Which included but was not limited to the following; **1.** To strike claims that the USDA's wrongful fire management/school led to the Thirty-Mile-Fire Deaths. **2.** To strike the Remedy, Equity, and Security of deploying newer equipment and technology first, and returning to the Citizens' Common-law right of "Self-Deployed-Dispatch."

This Common-law right/remedy accords with utilizing private fire equipment pursuant to **RCW 76.04.177.**

3. To strike allegations of **USCA 18 #241** *Conspiracy against rights of citizens,* and/or to strike avers to the Governments' oppression of Private Firefighter Rights.

*It appears executive appointed **DA** McDevitt failed to do his [**28 #535** *See* A-34] duty to expeditiously report information relating to violations of Title 18, when he moved to have the information removed from the record, and in conjunction with FBI SR Agent Egon S. Dezihan refused to meet with or assist the information claimants. [*See* A-24/25 &31-9A.80.010]

*This McDevitt omission may be *due to* the claim that before McDevitt was a DA, he was a Fire Boss.

*The S.Doc. No. 248, 79th Congress 2d Sess., 255 (1946) defined *"Agency Power"* as (*"to assure the complete coverage of every form of agency power, proceeding, action, or inaction."*). This definition supports counsel Cohen's sovereign immunity opinion that makes the USDA judicially **un**accountable to Citizens. This leaves accountability duties to the DA who's duty of oath (WA. Constitution) is to protect individual rights of Citizens. Even when required to defend public servants pursuant 28 #2679, the DA has the duty to investigate and decide whether to defend as innocent or as guilty. In this case Region-6's public servants have committed offenses against the United States Citizen's Common-law rights, and their U.S. lands, which requires the DA to prosecute pursuant to **28 #547 Duties(1).** [*See* A-34]

On Dec. 17, 2001, the Petitioners filed a more definite statement/Reply (to U.S. **D**istrict **A**ttorney **DA** McDevitt's Motion for a More Definite Statement) which listed the unpaid performances (now for more than 13 years) of their faithful services.

On Dec. 17, 2001, the Petitioners filed a Rebut to **DA** McDevitt's Motion to Dismiss, and cited

constitutional rights prejudiced if Motion was granted.

***On Dec. 26, 2001 the L.R. 16.1** right to a status conference within (90) days after an action is commenced was abated, as the court contrary to **28 #652(a)**, ignored the Petitioners' question for sending out a *Status Conference Notice*. This notice negation contrary to **FRCP 16**, is also contrary to the court's duty to **FRCP 1.** *The Scope & Purpose of Rules* that mandate rules *"be construed and administered to secure the just, speedy, and inexpensive determination of every action."* Interpreting rules with fettering and obstructive opinions that require Common-law Citizens to spend years seeking Common-law Justice, is **not** just, speedy or inexpensive. [*See* A-34, 38 & 39]

***On Jan. 21, 2002 Judge Justin L. Quackenbush** while on vacation, signed the 1/24/02 Order Granting Motion to Dismiss. [*See* A-10 & 20]

On Feb. 1, 2002, the Petitioners filed their; *"Motion to Amend Ruling With Order for the USDA to Negotiate and Settle All Issues . . ."*

***On Feb. 13, 02 the District Court** out of order, & amiss filed; Judgement in a **civil**? case. [*See* A-26]

***On Feb. 15, 2002, the District Court** filed; Order Denying Motion to Amend Ruling. [*See* A-7-9]

On April 9, 2002, the Petitioners filed; Notice/Motion of Intervention by 3 Victims of the 30-Mile-Fire, and filed Notice of Appeal directed to the 9th Circuit's Settlement/Mediation Program.

On April 17, 2002, the Petitioners filed; Motion in Support of Remand to the Proper Subject Matter Jurisdiction, filed a Motion in Support of a Jury Trial, and filed a Motion in Support of the 9th Circuit's Mediation Program.

***On April 24, 2002, the USDJ Torts** Branch (following DA McDevitt's lead) filed their Opposition to Proper Subject Matter Jurisdiction, Opposition to Jury Trial, and Opposition to a 9th Circuit Mediation.

On April 30, 2002, the Petitioners filed a Reply to the opposition to Jury Trial, Remand & Mediation. ***On April 30, 2002, the 9th Circuit** in support of the District Court, and contrary to **28 U.S.C. #1654**, rejected the case from the Mediation Program. The 9th Circuit's oral reason was that their policy is to not allow pro se in mediation. [*See personal right* A-36]

On May 15, 2002, the Petitioners filed their objection to the Court's prejudice of the Petitioners' Common-law mediation or **28 #1654** appearance right.

On May 21, 02, the Petitioners filed a request for U.S. Attorney General John Ashcroft, USDA Secretary Ann Veneman, and USDI Secretary Gale Norton to intervene, consider, arbitrate and/or settle pursuant to **28 #2672, 2677**, and **28 CFR #14.** [*See laws* A-37]

No response was received. This apparently was due to the fact that the D.C. Torts Branch had failed to pass on the request to the U.S. Attorney General.

Further; Prior on Feb. 5th 2002, USDA-D.C. Att. Barbra S. Good stated to Mr. Owen that there is **no** letter from the head of the agency designating USDA Att. Kenneth E. Cohen or any other as designee to consider or settle any claim, pursuant to **28 #2672**. And that the USDA Secretary is **not** informed as to claims. And if Mr. Owen wrote to the Secretary it would be her (Att. Good's) office that would answer!

On June 3, 2002, the Eastern WA.** U.S. District Court (without hearing or reply from the Defendants) filed an order denying the Notice of Intervention by 3 Victim Families of the USDA's 30-Mile-Fire. The Court reasoned that the after judgement intervention was disfavored as it tends to foster delay and prejudice adjudication of the rights of the original parties....[*See* A-6] The court overlooked the fact that there was **no** adjudication of any right or grievance submitted by any of the parties. It was the Court's ***Dismissed With Prejudice judgement that delayed and

prejudiced the Petitioners' **WA Article I #3** right to due process of law/WA Common-law. The court also denied the Petitioners' **WA Article I #10** right to the open administration of justice without delay. All *due to* the Court's closed hearings & erroneous screening judgement against the Petitioners, as if they were federal prisoners failing to state a colorable claim. [*See* A-30 *open/due process*, & **A-28 #1915** *Screening*]

This four month out of jurisdiction order (contrary to **28 #1367(a)**-A-35) was most likely *due to* the law clerks of the 9th Circuit's Motion Panel conferring with the District Court against the Petitioners' rights listed in their Motion for a Jury Trial, which included the following federal & state supportive opinions/laws:

"***A jury trial*** *in a suit against the U.S. is required if a statute expressly, or by fair implication, provides for one.* ***Austin v. Shalala,*** 994 F.2d 1170, 1175 (5th Cir. 1993).

RCW 4.20.020 *Wrongful Death—Beneficiary of action. . . . In every such action the jury may give such damages as, under all circumstances of the case, may to them to seem just.* [1985 c 139 . . .]

[W]here *'there is no direct conflict between the federal rule and the state law, . . . state law should control.* ***Sala v. Wang***, 846 F.2d 897, 905 n.7 (3rd Cir. 1988).

WA Article I #21. *The right of trial by jury shall remain inviolate, . . .* [*See . . .* **FRE 302** A-39]"

[***State law*** covers laws of the State's Constitution.]

***By June 12, 2002, the 9th Circuit's** Motion Panel of law clerks had presented their recommendation before Circuit Judges Rymer and Nelson, who denied the Petitioners' Motion for a Jury Trial, denied the Motion for Remand to the Proper Subject Matter Jurisdiction, denied the Motion to the Ninth Circuit's Mediation Program. And ordered;

"No motions for reconsideration, clarification, or

modification of the denial of appellant's[*sic*] motion for a jury trial, request for inclusion in the mediation program, or motion to disqualify counsel shall be filed or entertained." [*See* A-3]

This court order denying the Petitioners' **28 #1654** right to appear at the Mediation Program violates **28 USC #453,** the Court's oath to *"administer justice without respect to persons, and do equal right to the poor and to the rich."* [*See law* A-33] The Court's unjust reason for denial is *due to* the fact that the Petitioners too poor to hire a lawyer, are not lawyers.

On July 15, 2002, the Petitioners filed their; *"Appeal Brief in Support of Judgement on the Merits of Common-law and Equity with Law Declarations and Remedies of Power to the People Respectively"*

This brief was filed under the ***FTCA*** belief of **28 USC #1295(a)(2)** that the 9th Circuit had exclusive jurisdiction over the case's grievances. However the 9th Circuit elected review under **28 USC #1291** which limited the appeal review to jurisdictional issues. This was **not** pre revealed by the 9th Circuit (and thus **not** timely clarified to the Petitioners) until calling to find out why the Court had **not** given a *ratio decidendi*, and/or had **not** extended/applied the Court's power in Law and Equity pursuant to **U.S. Article III #2.**

***On August 29, 2002, the USDJ Torts Branch** filed an opposing brief that erroneously claimed that the Petitioners' claim was a contract claim levied on breaches of the **E**mergency **E**quipment **R**ental **A**greement (EERA). And that it was a merit less claim. [Allegedly owing to the fact that there were no breaches of any EERA term, and none cited by the Petitioners.] And that any allegation of tort does not preempt the subject matter jurisdiction of the Court of Federal Claims as construed by the 9th Circuit's opinions of the *Tucker Act.*

On Sept. 6, 02, the Petitioners filed a reply brief that restated their claim was owing to the wrongful inequity/torts of the FFS's "NON PAYMENT OF SERVICES", by their intentional mishandling of the Petitioners' request for release to Montana Fires. This refusal to release required that the Petitioners would **(again without pay)** remain on fire call duty while FFS deployed themselves to the gainful income fires. Further; The Petitioners submitted only the signature & face sheets of the EERA solely to prove that they had passed their inspections, and thus were USDA-FFS qualified to be utilized. The EERA or text was **not** submitted for the claim's gravamen. **[*See* A-15]**

On Dec. 13, 2002, the Petitioners upon discovery, filed Washington's substantive Common-law of ***Assumpsit*** that is the governing law of this action pursuant to *"Actions brought under the **FTCA** are governed by the substantive law of the state in which the alleged tort occurred. McCall v. United States Dept. of Energy*, 914 F.2d 191, 193 (9th Cir. 1990)."

***On Jan. 13, 2003 the 9th Circuit's** *turnstile* panel of law clerk Susan Gelmis (pursuant to information from the office of a paneled judge) orally paneled "phoned" Judges Beezer, Klienfield, and Paez for approval to file the Memorandum as;

> "Quinn and Ann Owen appeal pro se the district court's judgement dismissing their action alleging nonperformance of an agreement with the United States Forest Service for use and assignment of firefighting equipment and services, and intentional mishandling their claims for lost revenue. We have jurisdiction pursuant to **28 U.S.C. #1291.**
> We review de novo a dismissal for lack of subject matter jurisdiction, *Tucson Airport Auth. v. Gen Dynamics Corp.*, 136 F.3d 641, 644 (9th Cir. 1998), and we affirm. . . ." [*See* A-1-2]

The Memorandum's errors with corrections are:

1. The Petitioners never alleged nonperformance of an [legally binding/sealed] **agreement with the FFS.**

The petitioners alleged the right to share privileges, and that faithful services made the EERA an implied contract to be used and/or compensated for services performed. Which is colorable in Equity, at **U.S. Article IV #2**, and at the Common-law of ***Assumpsit.***

2. The Petitioners never alleged intentional mishandling of their claims for lost revenue.

The petitioners alleged intentional mishandling of their requests to be released to the Montana Fires.

The Petitioners also alleged the injustice of being denied by USDA Counsel Cohen, the Common-law or **28 #2672** due process right to **good faith** negotiations.

3. The Appeal Court did not review de novo.

> "*appeal de novo*. An appeal in which the appellate court uses the trial court's record but reviews the evidence and law without deference to the trial court's rulings." *See* BLD 7th Ed.

The 9th Circuit refused exclusive review jurisdiction, and thus did **not** review the evidence or the trial law.

The 9th Circuit reviewed with bias deference to the District Court's ruling till the ruling was annexed to exclude federal authority for a jury trial, thus making it ***appear*** **proper/legal** to affirm the District Court's dismissal, and deny the Petitioners' due process rights to remand, jury, mediation, disclosure, and/or deny due process *according to rules of the Common-law*.

On Feb. 5, 03, the Petitioners pursuant to FRAP 40-1, filed fifty one copies of their Petition for Rehearing. All 50 copies of 15 pages plus 21 pages of evidence, are alleged to have been thrown out, with **no** 9th Circuit judge ever receiving a copy.

***On April 30, 03, the 9th Circuit's** panel of law clerks orally paneled Circuit Judges Beezer, Kleinfield, and Paez to vote/file:

"The panel has voted to deny the petition for panel rehearing. Judges Kleinfield, and Paez have voted to deny the petition for rehearing en banc, and Judge Beezer so recommends. The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to hear the matter en banc. . . .The petition for panel rehearing and the petition for rehearing en banc are denied. No further filings will be accepted in this closed appeal." [*See* A-24]

Pursuant ***U.S. Amend. I****: Congress shall make no law . . . prohibiting . . . the right of the people to petition the government for a redress of grievances.*

The courts overlooked their oath to support the U.S. Constitution, for the Petitioners are prohibited from petitioning the government for a redress of grievances owing to the fact that the courts' opinions have denied the Petitioners' Common-law right for their grievances to be **first** addressed, all openly pursuant **WA Article I #10.** [***See* OC A-40**] **No** judge openly heard or addressed the Petitioners grievances!

On July 25, 2002, GFT called Okanogan-FFS Pam Goodyear Bradley for a renewed emergency equipment rental agreement. She said that Okanogan-FFS had made a new policy to **not** issue any EERAs this year, and to call Wenatchee-FFS Contract Officer Don Mann who could explain the new policy. Don Mann told GFT to submit a written request for written validity of this new policy. GFT did so but never received the needed documentation, instead a letter stating that his attorneys' advice was to **not** answer.

On August 23, 2002, President Bush viewed the Oregon Squire Fire and said; *"Preventing devastating fires isn't political."* The President is unaware that Oregon's 747, and Biscuit Fires did not naturally grow but were implemented and/or reignited by **F**ire

Management weeks earlier. Starting on 8/5/02 FM's ignition groups spent 2 weeks firing off more than **55 miles** of fire line, as viewed by GFT Associates. All in cupidity support of their fraudulent **Wildland Fire Implementation Plan,** which over the years has resulted in the loss of homes, millions of acres of job marketable or recreational timber land, and the death of ill equipped uninformed rookies. [*See* A-61]

FACT: PNWCG heads are Fire Management Officers or ex *firing* Hotshots, none are Suppression Officers!

MOTIVE COPIED FROM THE HERALD NEWS:
"About two dozen veteran" [management]
"firefighters who spent months battling" [managing]
"a series of destructive wildfires across the West have been ordered to return thousands of dollars in overtime pay. The firefighters who work for the National Park Service, Forest Service and Bureau of Land Management, were told in recent weeks they had worked too much overtime and exceeded salary limits. Federal law restricts pay for firefighters to $122,600. a year. Officials said they are trying to find a way to allow the firefighters to keep their overtime, which may include paying back the funds, but receiving reimbursements in some other form. ***From Herald News Service.***"

On May 19, 2003, the Wenatchee World reported from Region-6's Coordination Group with/via **F**ire **M**anagement **O**fficer Elton Thomas, that up to 200 firefighters (Private Wildfire Suppression Equipment Operators) would be affected *due to* FM's suspension order and fraud investigation alleging that the privates did not have a valid teacher/agency sponsor to certify training. Elton Thomas is the FMO who ratified igniting **55+ miles** of Biscuit Fire, and is the same FMO that directed the Wildland Fire Implementation Plan on the 30-Mile-Fire that took the lives of 4 firefighters who were **not** (rightfully) informed of his

plan that was all set in motion the night before by his Entiat Hotshot Superintendent who sent away all of the Suppression Equipment. [*See* 56-59, & 61] Without due process & disclosure justice is denied.

REASONS, LAWS, AND DEFINITIONS FOR GRANTING WRIT, & ANSWERING QUESTIONS

I. THE DISTRICT COURT, THE DISTRICT ATTORNEY, AND RESIDENT FBI ALL ERRED WHEN THEY DISMISSED WITH PREJUDICE, OPPOSED, AND REFUSED TO INVESTIGATE GFT's COLORABLE CLAIMS OF COMMON-LAW.

II. GRANT OF WRIT WILL (PURSUANT TO **WA ARTICLE I #1**) PROTECT THE JUST, RETAINED INDIVIDUAL RIGHTS OF **WA ARTICLE I #2, #3 & #10**, FOR THE PETITIONERS HAVE ALL BEEN **DENIED U.S. ARTICLE III** COMMON-LAW AND EQUITY DUE PROCESS, AND **DENIED** JUSTICE ADMINISTERED OPENLY & WITHOUT DELAY.

III. THE DISTRICT COURT INVERSE TO DUTY, OATH & DUE PROCESS, **DENIED** ALL RIGHTS TO JUSTICE AND/OR THE LAW OF THE LAND.

IV. THE DISTRICT COURT DEPARTED FROM THE ACCEPTED/USUAL COURSE OF JUDICIAL PROCEEDINGS, WHEN IT INTERCEDED TO DENY THE INTERVENTION WITH AUTHORITY FOR *TRIAL ACCORDING TO THE COMMON-LAW*.

V. GRANT OF WRIT WITH ORDER FOR GFT's **FAIR** MANAGEMENT REMEDIES WILL PROVIDE **EQUITY** WHICH IS **JUSTICE** FOR ALL GOV. & COMMON-LAW FIREFIGHTERS, AND SECURITY FOR U.S. CITIZENS, HOMES, AND LANDS, WITH **FAIR** FIRE SECURITY INDEMNITIES THAT WILL **JUSTLY** UPGRADE CITIZEN AND GOV. SUPPRESSION EQUIPMENT AND OPERATORS.

The Rules of Justice (Common-law with Equity) are long established since England's Chancery Courts, as law of the land due process rules *retained* by the following justice customs: **1.** Full disclosure/discovery; **2. Good Faith** negotiations; **3.** Open Common-law of the land due process without delay; **4.** Jury of peers; **5.** Depositions or face to face cross-examinations; **6.** Judicial power extended in moral customs and/or equitable remedies; And **7.** Holding the government accountable to the law of the land, and/or the People it serves pursuant to ***Rights of The Magna Carta.***

Since the Magna Carta based U.S. Constitution, the people (with their due process requirements of Common-law rules) have constitutionally retained their right to hold accountable the states' Roman/civil-law.

> "**civil law.** 1 One of two prominent legal systems in the Western World originally administered in the Roman empire and still influential in . . . Louisiana . . . **Cf.** COMMON LAW. 2. **ROMAN LAW** (1). 3. The body of law imposed by the state, as opposed to moral law." *See* BLD 7TH Ed.

The USDA's imposed *U.S. v. Orleans* sovereign immunity; Congress' civil-law procedure of **28 #1491** that imposes trial without Law and Equity; **#2402** that imposes trial without a jury; and **#2519** that imposes judgement without right of redress, is Congress' unconstitutional **Roman/civil-law** system that denies the Petitioners' *retained* rights to justice and/or due process *according to the rules of the Common-law*.

28 #1491, #2402 and #2519 were all enacted in 1948 when Congress did pass private bills for the indemnity/Equity of individuals who were injured owing to a government tort. The last private bill known of by the Petitioners, was initiated in the 70ties and took over 25 years to pass without remedy /indemnity or Equity, for the claimants had died.

Today Congress does not legislate *Equity* for private Citizens. Congress legislates **their *Desires*** for **their special interest groups** who they unjustly favor, all owing to paying for **their elections.**

Pursuant to 28 USC #1491(c), #1585, & #1876 Congress legislated the Court of International Trade with protected powers in Law and Equity, and Trial by Jury. Now internationals have Common-law Justice, while U.S. Citizens are taxed, and denied fundamental justice, and/or the due process rules of Common-law.

[*See* **A-28 #1491(c)** exempt internationals]

Pursuant 28 U.S.C. #1652, *State laws as rules of decision* are required in all cases, and pursuant **28 USC #1861** Trial by Jury is the declared United States policy. All excluding U.S. Citizens pleading/petitioning to hold accountable a US regime. [*See* A-36 & 28/29]

U.S. Article I #8 lists Congress' enumerated rights to constitute tribunals and impose/make law. However the at Common-law cases of WA. Citizens all fall under the Law and Equity jurisdiction of **U.S. Article III,** for all Common-laws arise under **U.S. Amend. IX** as rights *retained* by the People's ethical customs.

All Supreme Rights that are **not** to be denied or disparaged by any of Congress' enumerated rights, including the right to impose tribunals, or make law.

QUESTIONS WITH LAW, DEF. & DISCUSSION:

1. Do due process and/or constitutional requirements fairly made a part of a Common-law claim not colorable at Federal-law but colorable in Equity and at Common-law, mandate that it further be colorable at Common-Equity as Federal-law?

[*See* **A-41 Equity (law)**]

"**ratio decidendi.** [Latin "the reason for deciding"] 1. The principal or rule of law on which a court's decision is founded <many poorly written judicial decisions do not contain a clearly ascertainable

ratio decidendi>. 2. The rule of law on which a later court thinks that a previous court founded its decision; a general rule without which a case must have been decided otherwise <this opinion recognizes the Supreme Court's *ratio decidendi* in the school desegregation cases>." *See* BLD 7th Ed.

The District Court and 9th Circuit cited no law, fundamental principal or reason *"ratio decidendi"* for their decision that the claim was not colorable and thus dismissible. A court that does not reason it's decision in accordance with Common-law/Equity (that protects and/or indemnifies *retained* individual rights) can**not** be trusted to do justice for Citizens, but can be trusted to impose and protect the will of the state. In this case the court has unjustly protected Region-6's imposed will of imprisonment, & thiefdom crimes.

"**due process.** The conduct of legal proceeding according to established rules and principals for the protection and enforcement of private rights, including notice and the right to a fair hearing before a tribunal with the power to decide the case." . . . "The words, 'due process of law,' were undoubtedly intended to convey the same meaning as the words 'by the law of the land,' in ***Magna Charta***." *Murray's Lessee v. Hoboken Land & Improvement Co.*, 59 U.S. (18 How.) 272, 276 (1856) (Curtis, J.)." *See* BLD 7th Ed.

WA Article I #2. "The Constitution of the United States is **the supreme law of the land.**"

U.S. Article IV #2 "The citizens of each state shall be **entitled to all privileges** and immunities of citizens in the several states."

***FTCA*-28 USC #1346 United States as defendant.** ". . . (b)(1) . . . the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred." [*See* A-35]

ASSUMPSIT

"**1. When Lies.** In an action to recover for services performed, a verdict for plaintiff is warranted, although there is no proof that the services were performed at the request of defendant or of an authorized agent, when it appears that defendant ratified the performance of such services by availing himself of the fruits thereof. (*Maney v. Hart*, **11 Wash. 67:** 39 Pac. 268; d. 21, 25, 56, 57, 396, 397, 398." *In Northwest Digest W.S. Church* Vol. 2 (1899). [***See Assumpsit* A-39/40**]

"**Due Process Clause.** The constitutional provision that prohibits the government from unfairly or arbitrarily depriving a person of life, liberty, or property." *See* BLD 7th Ed.

The Government has unfairly/arbitrarily deprived the Petitioners of their **U.S. Article IV #2** right to share in the *liberty* of Wild Fire Suppression as is privileged by like Citizens in the several states, and deprived them of fiscal *property* owed (pursuant to **Amend IX** *retained* ***Assumpsit***) for unpaid services.

All contrary to the supreme law of the land, and all prejudiced against Common-law due process.

All owing to the District's and 9th Circuit's fettering, screening and turnstile **bad faith** process, which imposes the opinion that a Common-law claim colorable in Equity & at the *retained* Supreme-law of the land **U.S. Article IV #2 & U.S. Amend IX**, and colorable at Common-law of the land ***Assumpsit***, is **not** colorable at Federal Law imposed without Equity.

Without Equity, federally imposed rulings violate **U.S. Article III #2's** mandate that judicial power shall extend to all cases, in Law and Equity, . . .

Accordingly, imposing Federal-law without Equity on Common-law Citizens is **unconstitutional!**

2. In cases at Common-law do due process and/or constitutional requirements mandate that the People's *retained right of trial by jury shall be preserved, and be according to the rules of the Common-law* in all jurisdictions? And are non-trial venues jury exempt? [*See* p.23 **WA Article I #2**]

"**U.S. Amendment VII.** In suits at common-law, where the value in controversy shall exceed twenty dollars, the *right of trial by jury shall be preserved* ***and*** no fact tried by a jury, ***shall be*** otherwise reexamined in any court of the United States, than ***according to the rules of the common-law.***"

"**RCW 4.04.010 Extent to which common law prevails. The common law,** so far as it is not inconsistent with the Constitutions and laws of the United States, or of the state of Washington nor incompatible with the institutions and condition of society in this state, **shall be the rule of decision in all the courts of this state**."

"**RCW 9A.04.060 Common law to supplement statute. The provisions of the common-law** relating to the commission of crime and the punishment thereof, insofar as not inconsistent with the constitutions and statues of this state **shall supplement all penal statutes of this state** and all persons offending against the same shall be tried in the courts of this state having jurisdiction of the offense."

Equity is the first provision of the Common-law.

Pursuant to Washington's Supreme law of the land, Constitution, Statutes, and **28 USC #1652**, all WA actions are mandated a Common-law rule of decision with provisions in Equity and/or due process ***according to the rules of the Common-law***. [A-36]

3. Do the attorney-client enumerated right privileges of security in *their* information/papers and fettering due process, disparage WA Citizens' Common-law *retained* right too full disclosure of public or heritage information? And is this abuse of privileges criminal?

> "**U.S. Amendment IV.** The right of the people to be secure in ***their*** persons, houses, **papers** . . ."
>
> "**U.S. Amendment IX.** The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others *retained* by the people."

The Peoples' Common-law right to full disclosure is *retained* above enumerated rights to conceal, owing to the necessity of full disclosure required for Justice.

> "**crime-fraud exception**. The doctrine that neither the attorney-client privilege nor the attorney-work-product privilege protects attorney-client communications that are in the furtherance of a current or planned crime or fraud. *Clark v. United States*, 289 U.S. 1, 53 S.Ct. 465 (1933); *In re Grand Jury Subpoena Duces Tecum,* 731 F.2d 1032 (2d Cir. 1984)." *See* BLD 7th Ed.

Only proprietary and/or solely owned information is validly protected under the attorney-client privilege. ***Amend. IV*** *The right of the people to secure* **their**

Concealing information that is public or heritage co-owned, is the **furtherance of the crime** known as obstruction of justice, or obstructing disclosure rights.

Fraud herein is defined as profiting from the mislead of owning the information's sole ownership right, which is required to lawfully secure or conceal information. [*See* A-67-71]

Today, lawyers with clients in fraud of their ? sole ownership, abuse the enumerated security and due process rights of **U.S. Amendment IV, & V** to

criminally obstruct/deny Citizens **their** Common-law retained right to Full Disclosure & Discovery Justice.

Without national security duties or sole ownership, lawyers have **no** right to deny a Citizen justice and/or his/her public or heritage information. [*See* A-31 **RCW 42.17.251** *the sovereign right to be informed*]

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4. In a case at merged Common-law with Equity should the order of the court be vacated when the court's enumerated right to rule/extend judicial power is construed to disparage an individual right *retained* in Equity & Common-law by People of clean hands?

Equity is the Ruling Common-law of the People for People do **not** impose unfair customs on themselves!

It is the *retained* custom/right to win judicial Equity!

> "**Ninth Amendment.** The constitutional amendment, ratified with the bill of rights in 1791, providing that rights listed in the Constitution must **not** be construed in a way that denies or disparages **unlisted rights, which are retained by the people.**" *See* BLD 7th Ed.
>
> **WA Article I #1.** "All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights."

Pursuant definitions of Equity, Common-law and **U.S. Amend. IX**, the court's enumerated right to rule/extend power shall **not** disparage an unlisted right *retained* by the People's Equity Custom/Common-law

Accordingly pursuant **WA Article I #1** the court must protect and maintain individual rights *retained* by the People's Equity Custom and/or Common-law.

All of which accord with the mandates of **WA Article I #2, U.S. Article III #2, & U.S. Article VI.**

5. Do ethical or equitable customs with a determined or established memory of 60 years;
I. Constitute as Common-laws?
II. Constitute as rights *retained* by the People?
III. Constitute as individual rights that are to be protected and maintained by the governments?

[*See* **WA. I #1** atop]

"**common law**, . . .". . . Where the common law governs, the judge, in what is now the forgotten past, decided the case in accordance with morality and custom and later judges followed his decision. They did not do so by construing the words of his judgement. They looked for the reason which had made him decide the case the way he did, the **ratio decidendi** as it came to be called. Thus it was the principle of the case, not the words, which went into the common-law. So historically the common-law is much less fettering than a code." Patrick Delvin, *The Judge* 177 (1979)." *See* BLD

"**legal memory** The period during which a legal right or custom can be determined or established. *Traditionally, common-law legal memory began in the year 1189, but in 1540 it became a steadily moving period of 60 years." *See* BLD 7th Ed.

The custom of Citizens using their equipment to fight Wildfires, is a 60-year-old ethical custom that was established before the USDA/USDI ever existed.

The custom of Equity from judgement, and in compensation, is a 60-year-old moral custom that was established as Law before District Courts ever existed.

[***See* A-41 Equity (law)**]

6. In Washington's jurisdiction of merged Common-law with Equity, do due process and/or constitutional requirements mandate that the judicial power shall be extended/applied to all cases, in Law and Equity and/or in Constitutional-law with Equitable Remedies?

WA Article I #32. A frequent recurrence to fundamental principles is essential to the security of individual right and the perpetuity of free government. [*See* **Intent A-2**]

"Constitutional-Law" is defined as a Common-law, statute, authority or case-law that is in Equity, and not inconsistent with the Constitutions, and does not disparage an individual right *retained* (of an Equitable Principle or Common-law) by a party of clean hands.

"**clean-hands doctrine.** The principal that a party cannot seek equitable relief or assert an equitable defense if that party has violated an equitable principle, such as good faith. *Such a party is described as having "unclean hands." *See* BLD 7th

"**The Equity of the Statute Rule** makes the statute's purpose, true reason for it, or the equity of the statute paramount. Unlike the Mischief Rule or Purpose Approach, the construer is not restricted by the text in carrying out the statue or rule's purpose. Sometimes it requires a construction not within the literal meaning of the text. *Baker v. Jacobs,* 23A.588 (Vt.1891)." [A-32>**RCW62A.103**]

"**code state.** Hist. A state that, at a given time, had already procedurally merged law and equity, so that equity was no longer administered as a separate system. *This term was current primarily in the early to mid-20th century." *See* BLD 7th Ed.

Washington had separate courts of Equity and Common-law until it merged its courts in the 30ties.

Pursuant to RCW4.04.010 **The Common-law,. . .shall be the rule of decision in all the courts of this state.;** WA Article I #2 The Constitution of the U.S. **is the supreme law** of the land, **And** U.S. Article III #2 **The judicial power shall extend to all cases, in Law-and-Equity, that arise under this Constitution,**

WA Citizens retain their Equity-and-Common-law jurisdiction, for all Common-laws arise under *U.S. Amendment IX, as rights RETAINED by the People*.

Legislative and judicial enumerated rights (contrary to **US Amend. IX**) are construed to deny the retained right to Constitutional-Law with Equitable Remedies. This right is *retained* by Citizens with clean hands.

> "**RCW 62A./UCC 1-207** Performance or acceptance under reservation of rights. (1) a party who, with explicit reservations of rights performs or promises performance in a manner demanded or offered by **the other party does not thereby prejudice the rights reserved.** Such word as: "without prejudice", "under protest." or the like are sufficient."

"**RCW 62A. 1-201(36) "Rights" includes remedies.**"

The Rights of Sovereignty, Common-law of the Land Due Process and Jurisdiction/Power Extended in Constitutional-law with Equitable Remedies are Hereby Reserved by the Petitioners & All GFT Associates In Common. "*Without prejudice of imposed law/opinion.*"

CONCLUSION

THEREFORE, Petitioners Mr. & Mrs. QUINN R. OWEN and GFT et al. Request of this Court to ANSWER 1-7; and GRANT a Writ of Mandamus to USDA/USDI-Region-6, and to USDJ-ED of WA, that Indemnifies All in Common, and Compels Gov. Duty to Protect and Maintain Individual Rights be Correctly Performed According to the Common-law with Gov. Power in All Cases, Extended in Constitutional-Law with Equitable Remedies. And to Protect/Support the Court's Grant of Remedy via GFT's Contracted Law with Equity Management of Idle Treasury Values for the Care/Security of U.S. Lands, and All In Common.

RESPECTIVELY SUBMITTED BY,

Quinn R Owen 9/19/03

Mr. Quinn R. Owen Date

Petitioner of Record with clean hands.

Ann D. Owen 9-19-03

Mrs. Ann D. Owen Date

Co-Petitioner with clean hands.

33014 B, Hwy. 97
Oroville, Washington 98844
(509) 476-3361

SEE REMEDY A-62-66, AND AFFIDAVIT A-72

A-1

FILED JAN 15 2003
CATHY A. CATTERSON
CLERK U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

[QUINN R. OWEN; et al., Plaintiffs-Appellants, v. USDA OKANOGAN FFS; et al., Defendants-Appellees.]

No.02-35375
D.C. No. CV-01-00306-JLQ
MEMORANDUM*

Appeal from the United State District Court
for the Eastern District of Washington
Justin L. Quackenbush, District Judge, Presiding.

Submitted January 13, 2003**

Before: BEEZER, KLEINFIELD, and PAEZ, Circuit Judges.

Quinn and Ann Owen appeal pro se the district court's judgement dismissing their action alleging non-performance of an agreement with the United States

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as may be provided by the Ninth Circuit Rule 36-3.

** The panel unanimously finds this case suitable for decision without oral argument, and denies appellants' request for oral argument. *See* Fed. R. App. P. 34(a)(2).

Forest Service for the use and assignment of firefighting equipment and services, and intentional mishandling of their claims for lost revenue. We have jurisdiction pursuant to 28 U.S.C. #1291. We review de novo a dismissal for lack of subject matter jurisdiction, *Tucson Airport Auth. v. Gen. Dynamics Corp.*, 136 F.3d 641, 644 (9th Cir. 1998), and we affirm.

The district court properly dismissed the Owens' action for lack of subject matter jurisdiction because the amount in controversy exceeds $10.000 and the Owens' claims, however characterized, are contractually based. *See* 28 U.S.C. #1491; *Tucson Airport Auth.*, 136F.3d at 647-48.

The district court did not abuse its discretion by declining, in the interest of justice, to transfer the action to the Court of Federal Claims. *See* 28 U.S.C. # 1631; *Clark v. Busey,* 959 F.2d 808, 813 (9th Cir. 1991) (affirming district court's refusal to transfer case that failed to state a colorable claim).

AFFIRMED.

PURSUANT TO THE <u>INTENT</u> AND TEXT OF WA ARTICLE I #32; IT IS ESSENTIAL THAT INTERPRETATION OF LAW RECURS TO <u>FUNDAMENTAL PRINCIPLES</u>! PRECEDING FEDERAL-LAW, IT WAS FUNDAMENTAL FOR VALIDITY THAT A CLAIM BE COLORABLE **<u>AT COMMON-LAW, AND/OR IN EQUITY</u>!**

FILED JUN 12 2003
CATHY A. CATTERSON
CLERK U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

[QUINN R. OWEN; Owen[*sic*] of Golden Fire Tech; et al., Plaintiffs-Appellants, v. USDA OKANOGAN FFS; et al., Defendants-Appellees.]

No.02-35375
D.C. No. CV-01-00306-JLQ
Eastern District of Washington, Spokane

ORDER

Before: RYMER and NELSON, Circuit Judges

Appellants' motion to remand to the district court is denied without prejudice to raising these jurisdictional arguments in the merits briefs.

Appellants' motion for a jury trial is denied.

Appellants' requests for inclusion in the mediation program are denied.

No motion for reconsideration, clarification, or modification of the denial of appellant's motion for a jury trial, request for inclusion in the mediation program, or motion to disqualify counsel shall be filed or entertained.

The briefing schedule is reset as follows: appellants' opening brief is now due July 17, 2002; appellees' brief is due August 14, 2002; and the optional reply brief is due within 14 days after service of appellees' brief.

S:/MOATT/Panelord/6.10.02/tk2/02-35375.wpd

FILED IN THE U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
JUN 03 2002
JAMES R. LARSEN, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

[QUINN R. OWEN and ANN D. OWEN, Owners of Golden Fire Tech, Plaintiffs, vs. UNITED STATES DEPARTMENT OF AGRICULTURE - OKANOGAN FFS, et al. Defendants.] NO. CS-01-0306-JLQ

ORDER DENYING MOTION FOR INTERVENTION

The court is in receipt of the pleadings entitled "Notice/Motion of Intervention by Families of U.S.D.A. Fire Victims" (C.R.26). Plaintiffs **Quinn R. Owen and Ann D. Owen** are proceeding pro se. Defendant United States of America is represented by **Frank A. Wilson**, Assistant United States Attorney. The subject motion has been submitted by the Plaintiffs on behalf of non-parties Ken L. Weaver, Jody B. Gray, and Kathie Fitzpatrick, who seek to intervene for the families of three victims of the tragic 30-Mile Fire of 2000, Devin Weaver, Jessica Johnson, and Karen Fitzpatrick.

The court has previously determined that this case sounded in contract, not tort. Under the Tucker Act, 28 U.S.C. # 1491, jurisdiction over contract claims against the United States in excess of $10,000 rests exclusively with the United States Court of Federal Claims. Plaintiffs sought contract damages from the United States in the amount of $3,678,749. Accordingly, on January 24, 2002, this court granted Defendant's Motion to Dismiss for lack of subject matter jurisdiction. (C.R. 15 at 8). This court also declined to transfer this case to the Court of Federal Claims on the grounds that transfer would not be

in the interest of justice. *Id.* Judgement of dismissal with prejudice was entered on February 13, 2002. (C.R. 22).

Plaintiffs moved to amend the court's ruling to obtain an order directing the United States to negotiate and settle all issues with Plaintiffs. (C.R. 16). On February 15, 2002, this court denied Plaintiffs' motion, directed the District Court Executive to confirm that a judgement of dismissal had been entered, **and ordered Plaintiffs not to file any further pleadings in this matter other than a Notice of Appeal.** (C.R. 23). As a result, the Clerk confirmed that judgment of Dismissal had been entered herein and hereafter closed this file. *Id.* at 3. This case is in fact now closed in this court.

Plaintiffs filed a Notice of Appeal to the U.S. Court of Appeals for the Ninth Circuit on April 9, 2002. (C.R. 25). On the same day, Plaintiffs filed the motion for intervention currently before this court. (C.R. 26). In separate affidavits therein, non-parties Ken L. Weaver, Jody B. Gray, and Kathie Fitzpatrick proposed to 'intervene/join of [their] own free will in this suit with the Petitioners Mr. & Mrs. Owen as jointly represented Golden Fire Tech Associates." (Notice of intervention (C.R. 26) Affidavits A, B, and C). In the body of the motion, Plaintiffs Quinn R. Owen and Ann D. Owen asserted that "Intervenors files [sic] this notice/motion of right to intervene as wrongful death parties. And as RCW 4.20.020 Beneficiaries of action, And as authorized by Federal Rule of Civil Procedure 24." (C.R. 26 at 1).

Under Washington law, only the personal representative of a decedent may maintain an action for damages for wrongful death. RCW 4.20.010. However, apart from the question of whether the proposed intervenors have the requisite standing to bring suit under the Washington wrongful death

statute, it is clear that this court is without jurisdiction to grant their motion for intervention. The filing of a notice of appeal confers jurisdiction in the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal. *Griggs v, Provident Consumer Discount Co.*, 459 U.S. 56, 59 (1982).

There is authority for the proposition that the same result applies even when a motion

for intervention has been filed simultaneously with a notice of appeal. *Armstrong Board of School Directors*, 616 F.2d 305, 327 (7th Cir. 1980) (holding that where a motion for intervention was filed simultaneously with a notice of appeal, the district court properly denied the motion for intervention).

Intervention following the entry of judgement is generally disfavored because it tends to foster delay and prejudice adjudication of the rights of the original parties to the suit. 6 *Moore's Federal Practice* # 24.24[3] (3d ed. 2000). If a motion for intervention is timely intervention after judgement may be allowed for the purpose of appealing a decision that the existing parties have decided not to pursue. *Id.* (citing *United States v. Presidio Investments, Ltd.*, 4 F.3d 805, 808 (9th Cir. 1993) (allowing intervention on appeal and substituting individual for government plaintiff after government moved to withdraw its appeal)). Here, however, the motion for intervention was untimely, the existing Plaintiffs have elected to appeal, and a Notice of Appeal has been filed. Accordingly, the Notice/Motion of Intervention by Families of U.S.D.A. Fire Victims (C.R. 26) is **DENIED.**

AS PREVIOUSLY ORDERED, THE PLAINTIFFS SHALL FILE NO FURTHER PLEADINGS IN THIS ACTION IN THIS COURT UNLESS THE MATTER

IS REMANDED TO THIS COURT BY THE NINTH CIRCUIT COURT OF APPEALS. VIOLATION OF THIS ORDER SHALL RESULT IN THE IMPOSITION OF SANCTIONS.

IT IS SO ORDERED. The clerk is hereby directed to enter this Order and furnish copies to Quinn R. Owen and Ann D. Owen and to counsel for Defendants. The clerk shall then close this file.

DATED this 3rd day of June, 2002.

"s/ JUSTIN L. QUAECKENBUSH ".
SENIOR UNITED STATES DISTRICT JUDGE

ORDER DENYING MOTION FOR INTERVENTION-3

FILED IN THE U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
FEB 15 2002
JAMES R. LARSEN, CLERK
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

[QUINN R. OWEN and ANN D. OWEN, Owners of Golden Fire Tech, Plaintiffs, vs. UNITED STATES DEPARTMENT OF AGRICULTURE - OKANOGAN FFS, et al. Defendants.] NO. CS-01-0306-JLQ

ORDER DENYING MOTION TO AMEND RULING AND PROHIBITING FURTHER FILINGS EXCEPT NOTICE OF APPEAL

Before the court is Plaintiffs' Motion to Amend Ruling With Order for the USDA to Negotiate and Settle All Issues Without Added Formal Procedure, and to Order an Investigation into the Standing Assertions of Fraud (C.R. 16), which was heard without oral argument on February 11, 2002, Plaintiffs **Quinn R. Owen** and **Ann D. Owen** are proceeding pro se. **Frank A. Wilson**, Assistant United States Attorney, appeared on behalf of Defendants United States Department of Agriculture (USDA), Forest Service, Okanogan National Forest;

Kris D. Bellini, Emergency Equipment Rental Agreement (EERA) Contracting Officer, and Kenneth E. Cohen, Assistant General Counsel, USDA Office of General Counsel.

The action herein involves a claim for damages against the USDA and two individual Defendants in the amount of $3,678,749.10. The gravamen of the Plaintiffs' claim is that the U.S. Forest Service wrongfully failed to do business with Plaintiffs for the acquisition of fire-fighting equipment and the dispatch of contract firefighting personnel during 2000 and 2001. Plaintiffs allege that Defendants had a duty to do both in accordance with an Emergency Equipment Rental Agreement (EERA). C.R. 1 at 7-9.

ORDER DENYING MOTION TO AMEND RULING-1

On January 24, 2002, this court ruled that the Plaintiffs are essentially alleging a contract claim; that the amount in controversy is over $10,000; and that under the Tucker Act, 28 U.S.C. # 1491, jurisdiction rests exclusively with the Court of Federal Claims. Order Granting Motion to Dismiss (C.R. 15 at 7). This court recognized that where a civil action is filed in a court in which subject matter jurisdiction is lacking, the court shall transfer the action to the proper court, if it is in the interest of justice. 28 U.S.C. # 1631. This court concluded, however, that the Court of Federal Claims would most likely dismiss this action, and therefore transfer is not in the interest of justice. *Id.* (citing *Mullally v. United States,* 95 F.3d 12, 14 (8th Cir. 1996)).

The court has fully considered Plaintiffs' Motion to Amend Ruling with Order for the USDA to Negotiate and Settle All Issues Without Added Formal Procedure, and to Order an Investigation into the Standing Assertions of Fraud (C.R. 16); Plaintiffs' Memorandum in support of the United States in Opposition to the Motion to Amend (C.R. 20); and

Plaintiffs' Reply (C.R. 21). Plaintiffs' arguments in support of the Motion to Amend are unpersuasive, and Plaintiffs cite no relevant authority.

The Petitioners cited from the BLD Authority to **definitively** prove that the Tucker Act does **not** apply! The court's 'no relevant authority' reveals a law clerk who is bias for opinions and **not** a judge of the People's Definitions or their Common-laws.

Accordingly, Plaintiffs' Motion to Amend Ruling With Order for the USDA to Negotiate and Settle All Issues Without Added Formal Procedure, and to Order an Investigation into the Standing Assertions of Fraud (C.R. 16) is **DENIED.**

As stated, this court, on January 24, 2002 filed its Order Granting Motion to Dismiss and, the court assumes, the Clerk of this court entered judgement in accordance with that Order dismissing this action. If Judgement of Dismissal has not been entered, it shall be filed forthwith. The Plaintiffs are ordered and directed not to file any further

pleadings in this matter, except a Notice of Appeal of this court's decision.

IT IS ORDERED. The Clerk is hereby directed to enter this Order, confirm that Judgement of Dismissal has been entered and furnish copies to Quinn R. Owen and Ann D. Owen and to counsel for Defendants. The clerk shall then close this file.

DATED this 12th day of **February, 2002.**

"s/ JUSTIN L. QUACKENBUSH ".
SENIOR UNITED STATES DISTRICT JUDGE

FILED IN THE U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
JAN 24 2002
JAMES R. LARSEN, CLERK
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

[QUINN R. OWEN and ANN D. OWEN, Owners of Golden Fire Tech, Plaintiffs, vs. UNITED STATES DEPARTMENT OF AGRICULTURE - OKANOGAN FFS, et al. Defendants.] NO. CS-01-0306-JLQ

ORDER GRANTING MOTION TO DISMISS

Before the court is Defendants' Motion to Dismiss, or In the Alternative, For More Definite Statement and to Strike Redundant, Immaterial and Impertinent Matters (C.R. 3), which was heard without argument on January 7, 2002. Plaintiffs **Quinn R. Owen** and **Ann D. Owen,** who refer to themselves as "Injured Petitioners," are proceeding pro se. **Frank A. Wilson**, Assistant United States Attorney, appeared on behalf of Defendants United States Department of Agriculture (USDA), Forest Service, Okanogan National Forest; Kris D. Bellini, Emergency Equipment Rental Agreement (EERA) Contracting Officer, and Kenneth E. Cohen, Assistant General Counsel, USDA Office of General Counsel.

The court has fully considered Plaintiffs' complaint which is entitled "Petition of Right for Equity Under Equal Protection of the U.S. Constitution and the Magna Carta Principles of Right." (C.R.1); Plaintiffs' supplementary pleading entitled "Common-Law Request for Stakeholder Answers." (C.R.2); and Defendants' Motion to Dismiss (C.R.3). The Court has also fully considered Defendants' Memorandum in Support of Motion to Dismiss (C.R. 4); Plaintiffs' Reply to USDA's Memorandum (C.R. 6); Plaintiffs' pleading entitled "Petitioners' Rebut Motion to

and To Strike ..." (C.R. 9); and Plaintiffs' supporting affidavits, Affidavit of Declarant Quinn R. Owen for; Petitioners' Reply (C.R. 7) and Affidavit of Declarant Quinn R. Owen for: Petitioners' Rebut Motion (C.R. 10). For the reasons discussed below, Defendants' Motion to Dismiss, or in the Alternative, for More Definite Statement and to Strike Redundant, Immaterial, and Impertinent Matters (C.R.3) is **GRANTED.**

Background

In their complaint, Plaintiffs aver that they are "non agency People with Posterity in common-law marriage without divorce";

> The WA state licensed marriage converted to the established 60 year custom in the 50ties. Thus a Common-law marriage now requires a state license. This fact illustrates the self-development of our Equitable and Lawful Customs to Common-laws.

that Quinn R. Owen is a director of the Equity Education Council, Inc., a Washington Non Profit Corporation; and that Quinn R. Owen and Ann D. Owen own an entity called "Golden Fire Tech." C.R. 1 at 1. Plaintiffs also aver that "There are only two systems of law in the world, one law of England called common law, based on People's customs/rights in Equity, and one law of Rome called civil-law, based on the government's regime imposed on the People." C.R. 1 at 2. The complaint indicates that the purposes of the Equity Education Council are to "to assist the people in securing equitable values and or gainful employment by providing counsel and or arranging educational or vocational training" C.R. 1

Ap. 2.

The complaint attempts to state a claim against the USDA and the two individual Defendants for damages in the amount of $3,678,749.10. The gravamen of the Plaintiffs' claim is that the Okanogan/Wenatchee National Forest Office of the U.S. Forest Service wrongfully failed to do business with Plaintiffs for the acquisition of firefighting equipment and the dispatch of contract firefighting personnel during 2000 and 2001. Plaintiffs allege that Defendants had a duty to do both in accordance with an agreement entered into between Plaintiffs and the USDA known as an Emergency Equipment Rental Agreement (EERA). C.R. 1 at 7-9.

Plaintiffs aver at least four "cause of action" herein, which may be summarized as follows:

First Cause of Action (Lost Revenue in 2000)- Plaintiffs allege that the government's "intentional mishandling" of their EERA agreement "deprived the Petitioners

of [their] 2000 National Fire Season Income." Plaintiffs argue that their claim for lost revenue based on the governments' failure to use their two engines and twelve contract personnel in 2000 is covered under the Federal Torts Claims Act (FTCA). Plaintiffs also argue that Defendant Cohen, as lead counsel for USDA, "ruled and adjudged the claim denied without grounds of common-equity or law." Plaintiffs aver that this denial amounted to "the predication of civil-law (the agency's unconstitutional jurisdiction/regime imposed on People)."Thus, Plaintiffs claim Defendants are liable for damages in the amount of $685,632.00 for lost revenue in the year 2000. (C.R. 1 at 12-14).

Second Cause of Action (Lost Revenue in 2001)- Plaintiffs allege that Defendants are similarly liable for causing a revenue loss of $685,632.00 in 2001

based on the governments' wrongful failure to use their equipment and personnel. Plaintiffs claim that the combined damages warranted under the First and Second Causes of Action herein total $3,678,749.10 C.R. 1 at 14-16.

Third Cause of Action (Privileges and Immunities, Due Process, and Equal Protection Claims) - Plaintiffs claim that the Defendants "refusal to share and/or dispatch nationally the Petitioners' equipment, did deny the Petitioners' {U.S. Article IV #2} constitutional right as an EERA Citizen in Washington State to the same deployment privileges of EERA Citizens in the several States." C.R. 1 at 16. The Plaintiffs further claim that "The Injuring Defendant's refusal to share/dispatch the Petitioners out of the local area (in violation of the USDA's 1989 policy to share) did deprive the Petitioners' right of property through loss of revenue, and liberty as a freely shared nationally deployed resource (in violation of the equitable spirit, and equal protection of {U.S. Amendment XIV #1}." C.R. 1 at 16-17.

Fourth Cause of Action (Unconstitutional Denial of Claim) - The Plaintiffs claim that the "civil-lawyer's claim denial without discussion or negotiations for settlement" was "in violation of the Petitioners' right to equal protection and due process of {Tort Claim Act of 1948, as amended}, and thus did violate the equitable spirit of {U.S. Amendment

XIV #1}." C.R. 1 at 17.

In addition, Plaintiffs cite "codified grounds for injury compensation," including tortious conduct by the state of Washington under RCW 4.92.090, violations of the Uniform Commercial Code, and alleged conspiracy to deprive Plaintiffs of their civil rights in violation of 18 U.S.C. #241. C.R.1 at 17-18.

The court's closed hearings lead to many mis-quotes/errors of fact, some egregious ones include: The Petitioners made **no** claim against Washington, and made **no** allegation of a conspiracy against them! Petitioners stated; *"It is not the Petitioners' intent to use {U.S.C.A. Title 18 #241} to add damages, but rather to prove grounds, liability placed, and the crime committed when the People are injured by the oppression of any of their rights and/or privileges."* C.R. 1 at 19.

This avers to the USDA-FFS's oppression of the Citizen's Common-law Right to fight fire.

Partly believed to be *due to* Spotted Owl deleted forestry positions now as New Fire Management positions acquired by Project/Implementation Fires promoted by oppression of Initial Attack & Citizen Firefighters who would faithfully put the fires out.

The complaint also states that "The Petitioners's(sic) EERA is not only an Implied Contract to use the Petitioners' equipment whenever there is a fire emergency. It is also a 13+ year agreement with faithful, national service, and thus the basis for the right of dispatch, to serve the needs of all U.S. citizens." C.R. 1 at 25.

Besides money damages, Plaintiffs pray for a number of equitable remedies to redress their alleged injuries. *See generally* C.R. 1 at 19-23.

Attached to the complaint are approximately 40 pages of Appendices, 26 pages of Exhibits (A-Z), and 124 pages of additional Exhibits (1-124). Much of the appended matter consists of unnecessary materials, such as a portion of the Articles of Incorporation of the Equity Education Council (Ap.1-2); a copy of the

Constitution of the United States, current to the Fourteenth Amendment (Ap. 6-10); a Microsoft Corporation disclosure on administrative law in the United States (Ap. 31-32); a general description of the nature and history of equal jurisprudence (Ap. 33-35); a Microsoft Corporation history if the Magna Carta (Ap. 36-40); and voluminous firefighting equipment specifications (Ex. 76-124).

Exhibits 17 consist of what appears to be page 1 of 4 of an Emergency Equipment Rental Agreement (EERA) between "Owen, Quinn R. 'Carlton Sales'" and USDA Forest Service, Okanogan-Wenatchee National Forests. The effective dates of the agreement are shown as beginning 5-31-00 and ending 5-31-02. Exhibit 18 consist of what appears to be page 3 of 4 of the same agreement. The court is unable to locate pages 2 or 4 of the EERA among the two hundred twenty-five pages in the complaint.

Appendices 28-30 of the complaint suggest that before commencing the action herein, Plaintiffs attempted to obtain an administrative remedy from the Department of Agriculture. In a letter dated October 17, 2000, USDA Contracting Officer Mark T. **Pg.4** Phillips determined that Plaintiffs had failed to certify their claim as required under the Contract Disputes Act, 41 U.S.C. # 605(c), for claims against the United States in excess of $100,000. Phillips nevertheless considered and denied Plaintiffs' claim on the grounds that the EERA in issue was not a binding contract, but merely a Request for Quotations (RFQ). C.R. 1 Ap. 28-30.

In addition to the complaint, Plaintiffs have filed a "Common-law Request for Stakeholder Answers," in which Plaintiffs address their request for "a good faith common-law answer. . . for the general Welfare of the People" directly to the Secretary of the United States Department of the Interior, Gale Norton. C.R.2.

This pleading appears to contemplate naming the Interior Department as an additional defendant in the action herein, but does not expressly do so. Instead, Plaintiffs merely aver that "[a]s a stakeholder party, the department of interior needs only to answer Remedies 58-71." There is no answer from the Interior Department in the record.

Analysis

In the Motion to Dismiss pending before this court, Defendants argue that this action should be dismissed pursuant to Fed. R. Civ. 12(b)(1) for lack of subject matter jurisdiction; Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief can be granted; Fed. R. Civ. P.8(a) for failure to contain a short and plain statement of the claim; and Fed. R. Civ. P. 8(e) for failure of the pleading to be simple, concise and direct. In the alternative, Defendants seek an order to require a more definite statement under Fed. R.Civ.P.12(e) and to strike redundant, immaterial, or impertinent matters under Fed. R. Civ. P. 12(f).

Defendants argue that claims under the Federal Tort Claims Act are governed by the substantive law of the state in which the alleged tort occurred. Defendants note that to succeed in a negligence action in Washington, Plaintiffs must prove the existence of a duty of care, breach of duty, injury, and proximate causation. Defendants argue that no duty was owed to the Plaintiffs under the EERA, and hence there was no breach of duty, nor proximate causation of an injury by an employee of the United States. C.R. 4 at 5. **Pg.5**

In response, the Plaintiffs argue that "[a]ll government agencies/servants have a constitutional duty to care, protect and maintain the People's individual right to financial Equity." Plaintiffs' Reply to USDA's Memorandum, C.R.6 at 3. In the pleading entitled "Petitioners' Rebut Motion to USDA's Motion

to Dismiss," Plaintiffs also argue that "[t]he USDA's motion to dismiss, alter, or strike is a clear lead in civil-law" and that "[t]he court cannot lawfully enact/impose civil opinion as law." C.R. 9 at 1.

IN A COMMON-LAW JURISDICTION THE RULE OF DECISION PROTECTS & MAINTAINS INDIVIDUAL RIGHTS OF COMMON-LAW, **NOT** THE IMPOSED POWERS OF GOVERNMENTS.

Defendants also argue that the EERA was not a contract, but merely an understanding between the parties, analogous to the solicitation of an offer to contract. C.R. 4 at 7. Defendants assert that the introductory clause of the EERA conditions performance only upon a request by the government and then only to the extent the contractor is willing and able to perform at the time of the order. Defendants argue that because the government made no additional request for performance, no contractual obligations arise under the EERA. *Id.* (citing letter of Mark T. Phillipp, Contracting Officer, dated October 17, 2000, C.R. 1 at Ap. 28-29).

The Plaintiffs respond by arguing that the USDA orally assured the Plaintiffs in 1988, 1994, and 2000 that their equipment and services would be needed shortly. C.R. 6 at 3. Plaintiffs also argue that "[g]rant of the USDA's civil-law [motion] will prejudice the Petitioners' Uniform Commercial Code right, and/or contract right to general provisions in Equity with principles of law-and-Equity." C.R. 9 at 4.

While the Government has not raised the following issue concerning this court's lack of jurisdiction over this contract claim, the court has the independent obligation to assure that jurisdiction does exist even though that issue has not been raised by the Defendants. *National Distribution Agency v. National*

Mut Ins. Co., 117 F. 3d 432, 433 (9th Cir. 1997) This court concludes that it lacks subject matter jurisdiction over this contract action.

Taken by its four corners, in essence, Plaintiffs' complaint allergies a contract claim against the USDA based upon the alleged EERA. The federal district courts have jurisdiction, concurrent with the Court of Federal Claims, of any civil action or claim **Pg.6** against the United States not exceeding $10,000 in amount founded upon the Constitution, any act of Congress, or any express or implied contract with the United States. 28 U.S.C. # 1346(a)(2). However, jurisdiction over contract claims, express or implied, where the amount in controversy *exceeds* $10,000 rests exclusively with the United States Court Of Federal Claims pursuant to the Tucker Act, 28 U.S.C. # 1491. *Cape Fox Corp. v. United States*, 646 F.2d 399, 401, 402 (9th Cir. 1981); 17 Charles Alan Wright, Arthur R. Miller, & Edward H. Cooper, *Federal Practice and Procedure* # 4101 n.86 (2d ed. 1988). In addition, the Tucker Act impliedly prohibits district courts from exercising jurisdiction over constitutional claims which are predicated on a contract with the United States. *Tucson Airport Authority v. General Dynamics Corp.*, 136 F.3d 641, 648 (9th Cir. 1998) (citing *North Star Alaska v. United States*, 14 F.3d 36, 38 (1994) [*North Star Alaska III*]).

In this case, Plaintiffs claim that Defendants' intentional mishandling of their EERA deprived them of income to which they were entitled in the amount of $3,679,749.10. Plaintiffs further claim that Defendants' refusal to do business with them violated their constitutional rights under Privileges and Immunities clause as well as the Due Process and Equal Protection clauses of the Fourteenth Amendment. Because the claim herein is basically a

contract claim in which the amount in controversy exceeds $10,000, the Tucker Act governs; only the Court of Federal Claims has jurisdiction of this action. Since the Plaintiffs' constitutional claims are predicated on their underlying contract claim, the Tucker Act also prohibits this court from exercising jurisdiction over the constitutional claims.

It is immaterial that Plaintiffs have alleged that Defendants' breach of contract was tortiuos. When an enforceable contract is alleged, an action for breach of contract does not lie outside the jurisdiction of the Court of Federal Claims merely because elements of tort are present in the claim. *Burtt v. United States*, 176 Ct.Cl.310,312 (1966) (holding that a tortious breach of contract does not constitute a tort independent of the contract so as to preclude operation of the Tucker Act). Nor does it matter whether the agreement upon which the claim is predicated is a valid contract. A complaint alleging the existence **Pg.7**

of an express contract, or even an implied-in-fact contract, confers jurisdiction on the Court of Federal Claims under the Tucker Act. *Gould, Inc v. United States,* 67 F.3d 925, 929-30 (Fed. Cir. 1995). Here, the gravamen of the Plaintiffs claim is that the EERA is an enforceable contract, the breach of which deprived them of income to which they were entitled. The nature of that claim is not altered by the further allegation that the Defendants intentionally mishandled the agreement. Thus, exclusive jurisdiction of this action rests with the Court of Federal Claims.

In appropriate circumstances, an action may be transferred to the proper court. Where a civil action is filed in a court in which subject matter jurisdiction is lacking, the court shall transfer the action to another court in which the action could have been brought, if it is in the interest of justice. 28 U.S.C. #1631. If it is most likely, however, that the

transferee court would merely dismiss the action, transfer would not be in the interest of justice. *Mullally v. United States*, 95 F.3d 12, 14 (8th Cir. 1996). Here because it appears likely that the Court of Federal Claims would dismiss this action, this transfer is not in the interest of justice.

Accordingly, Defendant's Motion to Dismiss, or In the Alternative, For More Definite Statement and to Strike Redundant, Immaterial, and Impertinent Matters (C.R. 3) is **GRANTED.** Plaintiffs' Petition of Right for Equity Under Equal Protection of the U.S. Constitution and the Magna Carta Principles of Right (C.R. 1) Is hereby **DISMISSED** with prejudice.

Plaintiffs' Common-law Request for Stakeholder Answers (C.R. 2) and Plaintiffs' Motion to Rebut Motion to Dismiss (C.R. 9) are **DENIED** as moot.

IT IS SO ORDERED. The clerk is hereby directed to enter this Order and furnish copies to Quinn R. Owen and Ann D. Owen and to counsel for Defendants.

DATED this 21st day of **January, 2002.**

"s/ JUSTIN L. QUACKENBUSH ".
SENIOR UNITED STATES DISTRICT JUDGE

ORDER GRANTING MOTION TO DISMISS - 8

DISMISSING A CASE IN EQUITY AND AT CONSTITUTIONAL-LAW, IS NEVER IN THE INTEREST OF JUSTICE OR OUR NATION!

THE COURT'S JUDGEMENT DENIED ALL RIGHTS TO CONSTITUTIONAL JUSTICE!

NOT ONE CITED OPINION OR ACT WAS BASED ON EQUITY OR CONSTITUTION-LAW!

THE COURT'S JUDGEMENT PROTECTS PUBLIC SERVANTS WITH VENAL DESIRES, AND DENIES JUDICIAL ACCOUNTABILITY!

United States Department of Agriculture | Office of the General Counsel | Washington, D.C. 20250-1400

CERTIFIED MAIL;-RETURN RECEIPT REQUESTED

Quinn R. Owen
Route 2, Box 410
Oroville, Washington 98844

MAR 30 2001

Subject: Your claim against the Forest Service

Dear Mr. Owen:

The claim submitted by you pursuant to the Federal Tort Claims Act ("FTCA") to the Forest Service on September 27, 2000, has been reviewed carefully by this office. Our review discloses no liability on the part of the United States. Your claim, therefore, is denied.

The FTCA is a limited surrender of the sovereign immunity of the United States v. Orleans, 425 U.S. 807, 813 (1976). The United States, as sovereign, is immune from suit, except to the extent it consents to be sued. The FTCA provides that the United States shall be liable for death, personal injury, or property damage caused by the negligent or wrongful act or omission of any employee of the agency acting within the scope of his or her office or employment, under circumstances where a private person would be liable in accordances with the law of the place where the act or omission occurred. 28 U.S.C. 1346(b), 2674. Our review discloses no personal injury or property damage resulting from the negligent or wrongful act on the part of an employee of the Government.

You are advised of your right to file suit in an appropriate United States District Court within six months of the date of the mailing of this letter if you are dissatisfied with the results of this determination.

Sincerely, "s/ Kenneth E. Cohen ".
Assistant General Counsel
General Law Division

A-22

X Certified Mail
Sender: Quinn & Ann Owen [*GFT*]
33014 B Hwy 97
Oroville, WA 98844

B. Date of Delivery **NOV 15 2000**
1. Article Addressed to:
Forest Service Region 6
Attn: Craig Phillips, Contracting
P.O. Box 2[3*sic*]623
Portland OR, 97208
2. Article Number 7099 3220 0006 7160 9003

United States Department of Agriculture	Forest Service	Pacific Northwest Region	P.O. Box 3623 Portland,OR 97208 333 SW 1st Street Portland,OR 97204

File Code: 6300/6500 **Date:** December 13, 2000
Route To:
Subject: Appeal to 10/17/00 Denial of Claim
To: GFT Golden Fire Tech
33014 B Hwy 97
Oroville, WA 98844

I am in receipt of your request to evaluate your claim that was submitted to the Okanogan National Forest on 9/27/00 with subsequent denial. After reviewing the merits of this request, it is my determination that this matter is not subject to appeal under the Contract Disputes Act of 1978 (CDA) and therefore would not have standing in procurement under the Federal Acquisition Regulations (FAR).

As referenced in a letter dated 10/17/00 from Mark T. Phillipp, ZAP leader for your contracting area, the EERA in itself is not a contract as defined in the FAR and therefore would not have standing with respect of appeals under CDA. The FAR outlines under FAR 2.101, ""Contract" means a mutually

binding legal relationship obligating the seller to furnish the supplies or services and the buyer to pay for them." The EERA is not binding on either party for dispatch. Further, FAR 16.702(a) Description, states "A basic agreement is not a contract." There was no binding relationship which obligated the Government to place orders with your firm or to disburse funds for services not rendered. The Forest Service, through the EERA, does not have a legal binding relationship with your firm in accordance with FAR.

This appeal falls within the preview of the Tort Claims Act of 1948, as amended, "The head of each Federal agency or his designee, in accordance with regulations prescribed by the Attorney General, may consider, ascertain, adjust, determine, compromise, and settle any claim for money damages against the United States for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the agency while acting within the scope of his office or employment, under circumstance where the United States, if a private person would be liable to the claimant in accordance with the law of the place where the act or omission occurred . . ."

I have forwarded your request to our Claims Specialist for review and any action under the Tort Claims Act. Someone will be in contact with you for follow-up on your claim.

"s/ CRAIG D. PHILLIPS ".
Program Manager, Acquisition
cc:
OKA - Mark Phillipp
FM - Mary Lee Maloney

FILED APR 30 2003
CATHY A. CATTERSON
CLERK U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

[QUINN R. OWEN; et al., Plaintiffs-Appellants, v. USDA OKANOGAN FFS; et al., Defendants-Appellees.]

No.02-35375
D.C. No. CV-01-00306-JLQ
Eastern Washington
(Spokane)

ORDER

Before:
BEEZER, KLEINFIELD, and PAEZ, Circuit Judges

The panel has voted to deny the petition for panel rehearing.

Judges Kleinfield and Paez have voted to deny the petition for rehearing en banc, and Judge Beezer so recommends.

The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. *See* Fed. R. App. P. 35.

The petition for panel rehearing and the petition for rehearing en banc are denied.

No further filings will be accepted in this closed appeal.

U.S. Department of Justice **U.S. OFFICIAL MAIL**
Federal Bureau of Investigation **SPOKANE**
1110 Third Avenue **JUN 13' 03**
Seattle, WA 98101-2904 **WA**

Official Business
Penalty for Private Use $300

Quinn P.[*sic*] Owen
Owen, Smith, Snyder and Associates
33014 "B" Hwy 97
Oroville, WA 98844

U.S. Department of Justice
Federal Bureau of Investigation

In Reply, Please Refer to File No.
Quinn P.[*sic*] Owen
Owen, Smith, Snyder & Associates
33014 "B" Hwy 97, Oroville, WA 98844

1110 Third Avenue
Seattle, WA 98101-2904
August 17, 2002

Dear Correspondent:

Because of current budget cuts and the large volume of mail received by the Seattle Office of the FBI, our resources will not permit us to individually answer each communication we receive. We have personally reviewed your communication; however, and have determined that it falls within one of the following categories: -

X No violation within the investigative jurisdiction of the FBI was identified. . . .

X The FBI cannot assist you with your complaint/ inquiry.

Sincerely, Charles E. Mandigo
Special Agent in Charge

By: "s/ Egon S. Dezihan ".
Supervisory Senior Resident Agent

229j117.let

FACTS: 1. On **FEB 15 2002** communication was sent to the FBI **Spokane Office**. **2.** No violation is identified when the violation claimants are ignored. **3.** USDJ correspondence between Justice Offices in Seattle and Spokane, resulted in holding the AUG 17, **2002** cannot assist reply until JUN 13, **2003**. **4.** All held until the Appeal Judgement filed on MAY 12, 2003, ultimately **DENIED** the Petitioners' Petition for a Common-law Investigative Trial. **5.** U.S. agencies with sovereign immunity, are **not** within the investigative jurisdiction of the FBI. **?**

A-26

FILED IN THE U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
FEB 13 2002
JAMES R. LARSEN, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

[QUINN R. OWEN and ANN D. OWEN, Owners of Golden Fire Tech, Plaintiffs, vs. UNITED STATES DEPARTMENT OF AGRICULTURE - OKANOGAN FFS, et al. Defendants.] NO. CS-01-306-JLQ

JUDGEMENT IN A CIVIL CASE

This action came to a hearing before the Court. The issues have been heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that Plaintiffs Petition of Right for Equity Under Equal Protection of the U.S. Constitution and the Magna Carta Principles of Right is hereby dismissed with prejudice.

DATED: February 13, 2002

JAMES R. LARSEN CLERK
By "s/ Shirley Peters " .
Deputy Clerk

CORRECTIVE FACTS:

1. The Petitioners did **not** file as Plaintiffs.

2. The Petitioners filed as Petitioners, for the Common Good, a WA Article I #4 Protected Right.

3. The Petitioners did **not** file a civil-[law] case.

4. The Petitioners filed a Common-law case that invoked U.S. Article III's Mandated Law & Equity.

5. **No** issue was heard or addressed pursuant to WA Article I #10's Mandate of justice administered openly/face to face, and without unnecessary delay.

RELEVANT PROVISIONS INVOLVED—
—by misapplied or unconstitutional impositions of:

U.S. Article I #8. *The congress shall have power. . .To constitute tribunals inferior to the Supreme Court; . . . To make all laws . . .*
CONGRESS' ENUMERATED RIGHT TO CONSTITUTE TRIBUNALS & MAKE LAW SHALL NOT DISPARAGE THE PEOPLE RETAINED RIGHTS OF COMMON-LAW.

U.S. Amendment IV. Security from unwarranted search and seizure. *The right of the people to be secure in **their** persons, houses, papers, and effects, against unreasonable search and seizures, . . .*

U.S. Amendment V. *No person shall . . . be **deprived** . . . , without **due** process of law; . . .*
WITHOUT NATIONAL SECURITY DUTIES, OR SOLE OWNERSHIP THERE IS **NO** DEPRAVITY, **NO** RIGHT OF DUE PROCESS, AND **NO** SECURITY RIGHT TO CONCEAL PUBLIC, OR HERITAGE INFORMATION.

28 U.S.C. #1491. [*Known as the Tucker Act*]
(a)(1) The United States Court of Federal Claims shall have jurisdiction to render judgement upon any claim against the United States founded either upon the Constitution, or any act of Congress or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidation or unliquidated damages in cases not sounding in tort. **For the Purpose of this paragraph, an express or implied contract with the** Army and Air Force Exchange Service, Navy Exchanges, Marine Corps Exchanges, Coast Guard Exchanges, or Exchange Councils of the National Aeronautics and Space Administration **shall be considered an express or implied contract with the United States. . . .**

NON-MILITARY CIVIL AGENCIES LIKE THE USDA ARE **"NOT"** LISTED FOR THE PURPOSES OF #1491.

(c) Nothing herein shall be construed to give the United States Court of Federal Claims jurisdiction of any civil action within the exclusive jurisdiction of the **C**ourt of **I**nternational **T**rade, or founded on conduct of, the **T**ennessee **V**alley **A**uthority . . .

HOW CAN 28 U.S.C. #1491 THAT WITHOUT EQUITY EXCLUDES THE SPECIAL JUSTICE INTERESTS OF THE **CIT** AND THE **TVA**, BE CONSTITUTIONAL?

28 # 1915A. SCREENING

(a) Screening— The court shall review, before docketing, if feasible or, in any event, as soon as practicable after docketing, a complaint in a civil action in which **a prisoner seeks redress** from a government entity or officer or employee of a government entity. (b) Grounds for dismissal — On review, the court shall identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint (1) is Frivolous, malicious, or fails to state a claim upon which relief may be granted; or (2) seeks monetary relief from a defendant who is immune from such relief. . . . Added by P.L. 104-134, #101(a) [805(a)], Apr. 26, 1996, . . .

THE PETITIONERS WERE SCREENED AS IF PRISONERS WITHOUT A COLORABLE CLAIM

28 U.S.C. #2402. Jury trial in actions against United States: Subject to chapter 179 of this title, any action against the United States under section 1346 shall be tried by the court **without a jury**, except that any action against the United States under section 1346(a)(1) shall, at the request of either party to such action, be tried by the court with a jury. History of 28 USC #2402; June 25, 1948, . . .

28 #2519. Conclusiveness of judgement

A final judgement of the United States Court of Federal Claims against any plaintiff **shall forever bar** any further claim, suit, or demand against the United States arising out of the matters involved in the case or controversy. . . .June 25, 1948. . .Apr. 2, 1982...

RELEVANT PROVISIONS INVOLVED—
-by misapplied or impositions contrary to laws of:

Magna Carta's Petition of Right (1628):
. . . no freeman may be . . . disseised of his freehold . . . or ***be outlawed or exiled, or in any manor destroyed,*** *but by the lawful judgement or his peers, or* ***by the law of the land****. . . .*

U.S. Article III #1. *The judicial power of the United States, shall be vested in one supreme court, and in such inferior courts as the congress may from time to time ordain and establish. . . . #2 The judicial power shall extend to all cases,* ***in law and equity****, arising under this Constitution, . . .*

U.S. Article IV #2. *The citizens of each state* ***shall be entitled to all privileges*** *and immunities of citizens in the several states.* ***. . . #4****. The United States shall guarantee to every state in this union a* ***republican form of government****, . . .*

U.S. Article VI. *. . . and all executive and judicial officers, both of the United States and of the several states,* ***shall be bound by oath or affirmation, to support this Constitution****; . . .*

U.S. Amendment I. *Congress shall make no law respecting . . .,or prohibiting . . .,or abridging . . . the right of the people peaceably to assemble, and to* ***petition the government for a redress of grievances****.*

U.S. Amendment V. *No person shall . . . be deprived of life, liberty, or property, without* ***due process of law****; . . .*

U.S. Amendment VII. *In suits at common law, . . ., **the right of trial by jury shall be preserved**, **and** no fact tried by a jury, shall **be** otherwise reexamined in any court of the United States, than **according to the rules of the common law**.*

U.S. Amendment IX. *The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage **others retained by the people.***

U.S. Amendment X. ***The powers not delegated** to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states **respectively, or to the people**.*

WA. Article I #1. *All political power is inherent in the people, and governments derive their just powers from the consent of the governed, **and are established to protect and maintain individual rights.***

WA. Article I #2. *The Constitution of the United States is the **supreme law of the land.***

WA. Article I #3. *No person shall be deprived of life, liberty, or property, without **due process of law.***

WA Article I #10. ***Justice in all cases shall be administered openly, and without unnecessary delay.***

WA. Article I #21. ***The right of trial by jury shall remain inviolate, . . .***

WA. Article I #30. *The enumeration in this Constitution of certain rights shall not be construed to deny **others retained by the people.***

WA. Article I #32. ***A frequent recurrence to fundamental principles** is essential to the security of individual right and the perpetuity of free government.*

RCW 4.04 RULE OF DECISION - FORM OF ACTIONS: RCW 4.04.010—
-Extent to which common law prevails.

The common law, so far as it is not inconsistent with the Constitutions and laws of the United States, or of the state of Washington nor incompatible with the institutions and conditions of society in this state, **shall be the rule of decision in all the courts of this state.** [1891 c 17 # 1; Code 1881 # 1; 1877 p 3 # 1; 1862 p 83 # 1; RRS # 143. Formerly RCW 1.12.030.]

RCW 9A.04.060 Common-law to supplement statute.

The provisions of the common law relating to the commission of crime and the punishment thereof, insofar as not inconsistent with the Constitutions and statutes of this state, **shall supplement all penal statutes of this state and all persons offending against the same shall be tried in the courts of this state** having jurisdiction of the offense. [1975 1 st ex.s. c 260 # 9A.04.060.]

RCW 9A.80.010 Official Misconduct.

(1) A public servant is guilty of official misconduct if, with intent to obtain a benefit or to **deprive another person of a lawful right or privilege**:
(a) He intentionally commits an unauthorized act under color of law; or (b) **He intentionally refrains from performing a duty imposed upon him by law.** (2) Official misconduct is a gross misdemeanor. [1975-'76 2nd ex.s. c 38 # 17; . . .]

RCW 42.17.251 Construction.

The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them

to know. **The people insist on remaining informed so that they may maintain control** over the instruments that they have created. The public records subdivision of this chapter shall be liberally construed and its exemptions narrowly construed **to promote this public policy.** [1992 c 139 # 2.]

RCW 62A./UCC 1-103 Supplementary general principles of law applicable. Unless displaced by the particular prevision of this Title, **the principles of law and equity**, including the law merchant, and the law relative to capacity to contract, principal and agent, estoppel, fraud misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating cause **shall supplement its provisions.** [1965 ex.s. c 157 # 1-103. Cf. former RCW sections: (i) RCW 22.04.570; 1913 c 99 # 56; RRS # 3642. (ii) RCW 23.80.180; 1939 c 100 # 18; RRS # 3803-118; formerly RCW 23.20.190. (iii) RCW 62.01.196; 1955 c 35 # 196; RRS # 3586. (iv) RCW 63.04.030; 1925 ex.s. c 142 # 2; RRS # 5836-2. (v) RCW 81.32.511; 1961 c 14 # 81.32.511; prior: 1915 c 159 # 51; RRS # 3697; formerly RCW 81.32.600.]
Application of common law: RCW 4.04.010.

RCW 62A/UCC 1-201 General Definitions.
(36) "Rights" Includes Remedies. [1996 c 77 # 1. Prior: 1993 c 230 # 2A-602; 1993 c 229 # 1; 1992 c 134 # 14; 1990 c 228 # 1; 1996 c 35 # 53; 1981 c 41 # 2; 1965 ex.s. c 157 # 1-210.]

RCW 62A./UCC 1-207 Performance or acceptance under reservation of rights. (1) A party who, with explicit reservations of rights performs or promises performance or assents to performance in a manner demanded or offered by **the other party does not thereby prejudice the rights reserved.** Such words as: "without prejudice", 'under protest" or the like are

sufficient. (2) subsection (1) of this section shall not apply to an accord and satisfaction. [1993 c 229 #2; 1965 ex.s. c 157 # 1-207.]

RCW 76.04.177 Fire suppression equipment — Requirement to utilize private equipment.

Before constructing or purchasing any equipment listed in RCW 76.04.175(1) for wildfire suppression, the department shall compare the per use cost of the equipment to be purchased or constructed with the per use cost of utilizing private equipment.

If utilizing private equipment is more effective and efficient, the department may not construct or purchase the equipment but shall utilize the equipment from the lowest responsive bidder. [1995 c 113 # 3.]

18 USC #241 Conspiracy against rights of citizens.

If two or more persons conspire to injure, **oppress,** threaten, or intimidate **any citizen in the free exercise or enjoyment of any right or privilege** secured to him by the Constitution or laws of the United States, or **because of his having so exercised the same**; . . . They shall be fined not more than $10,000 or imprisoned not more than ten years, or both; and if death results, they shall be subject to imprisonment for any term of years or for life.
June 25, 1948, c; 645, 62 Stat. 696; Apr. 11, 1968, Pub. L. 90-284, Title I, #103 (a), 82 Stat. 75.

28 U.S.C. #453. Oath of justices & judges

Each justice or judge of the United States shall take the following oath or affirmation before performing the duties of this office: "I, _____, do solemnly swear (or affirm) that I will administer justice **without respect to persons, and do equal right to the poor and to the rich**, and that I will faithfully and impartially discharge and perform all duties incumbent upon me as _____ under

the Constitution and laws of the United States, So help me God." History of 28 USC #453: June 25th, 1948, ch. 646, 62 Stat. 907; Dec 1, 1990, . . .

28 U.S.C. #535. Investigation of crimes involving government officers & employees; . . .
(6) Any information, allegation, or complaint received in a department or agency of the executive branch of the government **relating to violations of Title 18 involving government officers and employees shall be expeditiously reported to the attorney general** by the head of the department or agency, unless— . . . . History of 28 USC #535: Added P.L. 89-554, #4(c), Sept. 6, 1966, 80 Stat. 617.

28 U.S.C. #547. Duties.
Except as otherwise provided by law, each United States attorney, within his district, shall — **(1) prosecute for all offenses against the United States;** (2) prosecute or defend, for the government, all civil actions or proceedings in which the United States is concerned; . . . History of 28 USC #547: Added P.L. 89-554, # 4(c), Sept. 6, 1966, 80 Stat. 618.

28 U.S.C.. #652. Jurisdiction
(a) Consideration of alternative dispute resolution in appropriate cases. — Notwithstanding any provision of law to the contrary and except as provided in subsections (b) and (c), each district court shall, by local rule adopt under section 2071(a), require that litigants in all civil cases consider the use of an alternative dispute resolution process at an appropriate stage in the litigation. **Each district court shall provide litigants in <u>all</u> civil cases with at least one alternative dispute process,** including, but not limited, to mediation, early neutral evaluation, minitrial, and arbitration as authorized in section 654 through 658. Any district court that elects to require

the use of alternative dispute resolution in certain cases may do so only with respect to mediation, early neutral evaluation, and, if the parties consent, arbitration. . . . history . . . Added P.L. 100-702, #901(a), Nov. 19, 1988, . . .

28 U.S.C. #1346. United States as defendant.
(b)(1) Subject to the provisions of chapter 171 of this title, the district courts, . . ., shall have exclusive jurisdiction of civil actions on claims against the United States, for money damages, accruing on and after January 1, 1945, for injury or loss of property, or personal injury caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant **in accordance with the law of the place** where the act or omission occurred. . . .

28 U.S.C. #1367 Supplemental jurisdiction
(a)Except as provided in subsection (b) and (c) or as expressly provided otherwise by federal statute, in any civil action of which the district courts have original jurisdiction, the district courts shall have supplementary jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they perform part of the same case or **controversy under Article III of the United States Constitution. Such supplemental; jurisdiction shall include claims that involve the joinder or intervention of additional parties.** . . ., . . .; Added P.L.101-650, #310(a), Dec. 1, 1990,. . .

28 U.S.C. #1585. Powers in law & equity
The Court of International Trade shall possess all the **powers in law and equity** of, or as conferred by statute upon, a district court of the United States. . . . P.L. 96-417, #201, Oct. 10, 1980. 94 Stat. 1730.

28 U.S.C. #1652. State laws as rules of decision

The laws of the several states, except where the Constitution or treaties of the United States or acts of congress otherwise require or provide, **shall be regarded as rules of decision** in civil actions in the courts of the United States, in cases where they apply. History . . . June 25, 1948, . . .

28 U.S.C. #1654. Appearance personally . . .

In all courts of the United States **the parties may plead and conduct their own cases personally** or by counsel as, by the rules of such courts, respectively, are permitted to ,manage and conduct causes herein.. . . June 25, 1948, . . .

28 U.S.C. #1861. TRIAL BY JURY Declaration of policy

It is the policy of the United States that all litigants in federal courts **entitled to trial by jury** shall have the right to grand and petit juries selected at random from a fair cross section of the community in the district or division wherein the court convenes. . . . , . . .: June 25, 1948, . . .

28 U.S.C. # 1876 Trial by jury in the Court of International Trade

(a) In any civil action in the Court of International Trade which is to be **tried before a jury**, the jury shall be elected in accordance with provisions of this chapter and under the procedures set forth in the jury selection plan of the district court for the judicial district in which the case is to be tried. . . .:Added P.L. 96-417, #302(a), Oct 10, 1980, 94 Stat. 1739.

28 U.S.C. #2672. Administrative adjustment of claims. The head of each federal agency or his designee, in accordance with regulations prescribed by the Attorney General, **may consider, ascertain, adjust, determine, compromise, and settle any claim** for money damages against the United States for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the agency while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant **in accordance with the law of the place where the act or omissions occurred:** . . .: June 25, 1948. . ..

28 U.S.C. #2677 Compromise

The Attorney General or his designee may arbitrate, **compromise, or settle any claim** cognizable under section 1346(b) of this title, after the commencement of an action thereon. . . . : June 25, 1948, . . .

28 #CFR #14.6 Dispute resolution techniques . . .

(a) Guidance Regarding Dispute Resolution.

The administrative process pursuant 28 U.S.C. #2672 and this part 14 is intended to serve as an efficient effective forum for rapidly resolving tort claims with **low cost to all participants**. This guidance is provided to improve their use of this administrative process and to maximize the benefit achieved through application of **prompt, fair and efficient techniques** that achieve an informal resolution of administrative tort claims **without burdening claimants or the agency.**

. . . (1) Whenever feasible, administrative claims should be resolved through informal discussions, negotiations, and settlements **rather than through the use of any formal or structured process**. At the

same time, agency personnel processing administrative tort claims should be trained in dispute resolution techniques and skills that can contribute to the **prompt, fair and efficient resolution of administrative claims**. . . .

Federal Acquisition Regulation FAR 2.101, "Contract." means a mutually binding legal relationship obligating the seller to furnish the supplies or services and the buyer to pay for them. **FAR 16.702.(a)** a basic agreement is not a contract.

Pursuant to FAR: "Contract" only means mutually binding/fettering legal/sealed (or code) relationship. Thus where Common-law sovereignty has **not** been surrendered to a sealed/legal relationship, [a] basic agreement, implied contract or Assumpsit case should be settled pursuant to the jurisdiction of Common-law which is historically much less fettering than the binding code or **contract law that is without sealed, valid or legal jurisdiction.**

FRCP 1. SCOPE & PURPOSE OF RULES

These rules govern the procedure in the United States district courts in all suits of a civil nature whether cognizable as cases **at law or in equity** or in admiralty, with the exception stated in Rule 81. **They shall be construed and administered to secure the just, speedy, and inexpensive determination of every action**. Cross references to FRCP 1; *Commentaries,* "Introduction to the Federal Rules." ch 1-A, p. 3. ***Power of Supreme Court to prescribe rules of procedure and evidence***, see 28 U.S.C. #2072. . . . Source of FRCP 1: As amended Dec. 29, 1948, eff Oct. 20, 1949; Feb. 28, 1966, eff. July 1, 1966; Apr. 22, 1993, eff. Dec. 1, 1993.

FRCP 16 PRETRIAL CONFERENCES; SCHEDULING; MANAGEMENT

(a) Pretrial conferences; Objectives . . .
(1) expediting the disposition of the action;
(2) establishing early and continuing control so that the case will not be protracted because of lack of management; (3) discouraging wasteful pretrial activities; (4) improving the quality of the trial through more through preparation, and; (5) facilitating the settlement of the case.

FRE 302 APPLICABILITY OF STATE LAW

In civil actions and proceedings, the effect of a presumption respecting a fact which is an element of a claim or defense as to which **State law supplies the rule of decision is determined in accordance with State law.** Source of FRE 302: Pub L. 93-595, #1, Jan 2, 1975, 88 Stat. 1931.

ASSUMPSIT [Law Latin "he undertook"]
1. An express or implied promise, **not under seal,** by which one person undertakes to do some act or pay something to another <an assumpsit to pay a debt>.
2. A common-law action for breach of such a promise or for breach of a contract. <the creditor's assumpsit against the debtor>. *See* BLD 7th Ed. 99

"It was early known as "trespass on the case upon promises,' but in time came to be designated assumpsit (he assumed or promised), and simple, whether written or verbal, express or implied." Edwin E. Bryant, *The Law of Pleading Under the Codes of Civil Procedure* 9-10 (2d ed. 1899). BLD

"In its origin an action of tort, [Assumpsit] was soon transformed into an action of contract, becoming afterwards a remedy where there was neither tort nor contract. Based at first only upon an express promise, it was afterwards supported upon an implied promise, and even upon a fictitious promise. Introduced as a

special manifestation of the action on the case, it soon acquired the dignity of a distinct form of action, which superceded Debt, became concurrent with Account, with Case upon bailment, a warranty, and bills of exchange, and competed with Equity in cases of essentially equitable quasi-contracts growing out of the principle of unjust enrichment. Surely, it would be hard to find a better illustration of the flexibility and power of self-development of the Common Law." James Barr Ames, "*The History of Assumpsit,*" in 3 *Select Essays in Anglo-American Legal History* 298 (1909)." See BLD 7th Ed.

"CONSTITUTIONAL STANDARD"

A CUSTOM, CIVIL-LAW OR OPINION THAT MAINTAINS EQUITY IS CONSTITUTIONAL.

A CUSTOM, CIVIL-LAW OR OPINION THAT PREJUDICES EQUITY IS UNCONSTITUTIONAL.

ALL PURSUANT TO ARTICLE III MANDATES AND THE SUPREME COURT'S RULINGS THAT HAVE EXTENDED JUDICIAL POWER IN JUSTICE AND/OR IN LAW WITH EQUITY.

Open Court. **1.** A court that is in session, presided by a judge, attended by the parties and their attorneys, and engaged in judicial business. **Open court* usu. refers to a proceeding in which formal entries are made on the record. The term is distinguished from a court that is hearing evidence in camera or from a judge that is exercising merely magisterial powers. See BLD 7th Ed. 1999

peremptory mandamus. An absolute and unqualified command to the defendant to do the act in question. *It is issued when the defendant defaults on, or fails to show sufficient cause in answer to, an alternative mandamus. See BLD 7th Ed. 1999

"Equity (Law)

Equity is a branch of English COMMON LAW that was developed to cover limitations in the traditional civil law. In medieval England the courts had restricted powers and could not handle every case that arose. When a person could not go to the regular courts for relief, he or she would petition the king for relief, and the king would refer the matter to his chancellor, the next most important government official. In the late 15th century the chancellor began to decide these extraordinary cases directly or through assistants called masters, and the Court of Chancery developed. The purpose of that court was to supply a remedy when the regular common-law courts could not or would not do so. The law it developed became known as Equity, to distinguish it from the law applied in the regular common-law courts. Some states apply both legal and equitable principles in the same courts; others assign judges to sit either as Equity judges or as law judges.

Equity offers a wide variety of remedies; law has only one basic remedy. In cases at law the basic remedy is money damages. Sometimes, however, money is not a satisfactory remedy. Equitable principles permit the court to order the defendant to do or not to do a given act. **Orders to perform a contact (specific performance)**, to tear down a spite fence (mandatory injunction), and to stop excessive smoke or noise (injunction) are examples of equitable, non monetary remedies. The penalty for refusing to obey an equitable order is a possible citation for contempt of court. Equitable principles also apply when a contract must be reformed to reflect the true understanding of the parties and when a contract must be rescinded because it was the result of fraud.". . . "Frederick G. Kepmin, Jr. Bibliography: Batten, Jack,

and Harris, Marjorie, *Everyday Law* (1987); Cataldo, Bernard F., et al., *Introduction to Law and the Legal Process*, 3d ed. (1979); Gould Publications, *Equity Laws of the United States*, 1979 ed. (1978); Tillman G., *Equity, Incentives, and Taxation* (1989)."

Wild Fire Truck
Cab & Chassis Needs
A Report of the National Engine Study

Golden Fire Tech's 1999/2000 Summary in Short:
A properly designed Safety First Engine with Maximized Live Load Standards, can replace all Wild/Interface Categories under 32,000GVW

June 15, 1988
National Wildfire Coordination Group
Fire Equipment Woking Team
C

CONCLUSION National Engine Report

Casual interpretation of the fleet replacement numbers in the above table might conclude that there is low demand for all-wheel drive vehicles in the 16,000 to 26,000 GVWR range. A more correct interpretation would be that the anticipated purchase is low because of the lack of availability from primary manufactures. We believe there is a market for vehicles that meet our special needs.

A coordinated purchasing system has been developed so that federal, state, and local fire agencies can purchase through the General Services Administration. It is our intent to develop a limited number of specifications for vehicles that can be obtained through this system. Marketing and purchasing of this equipment through GSA should be relatively simple.

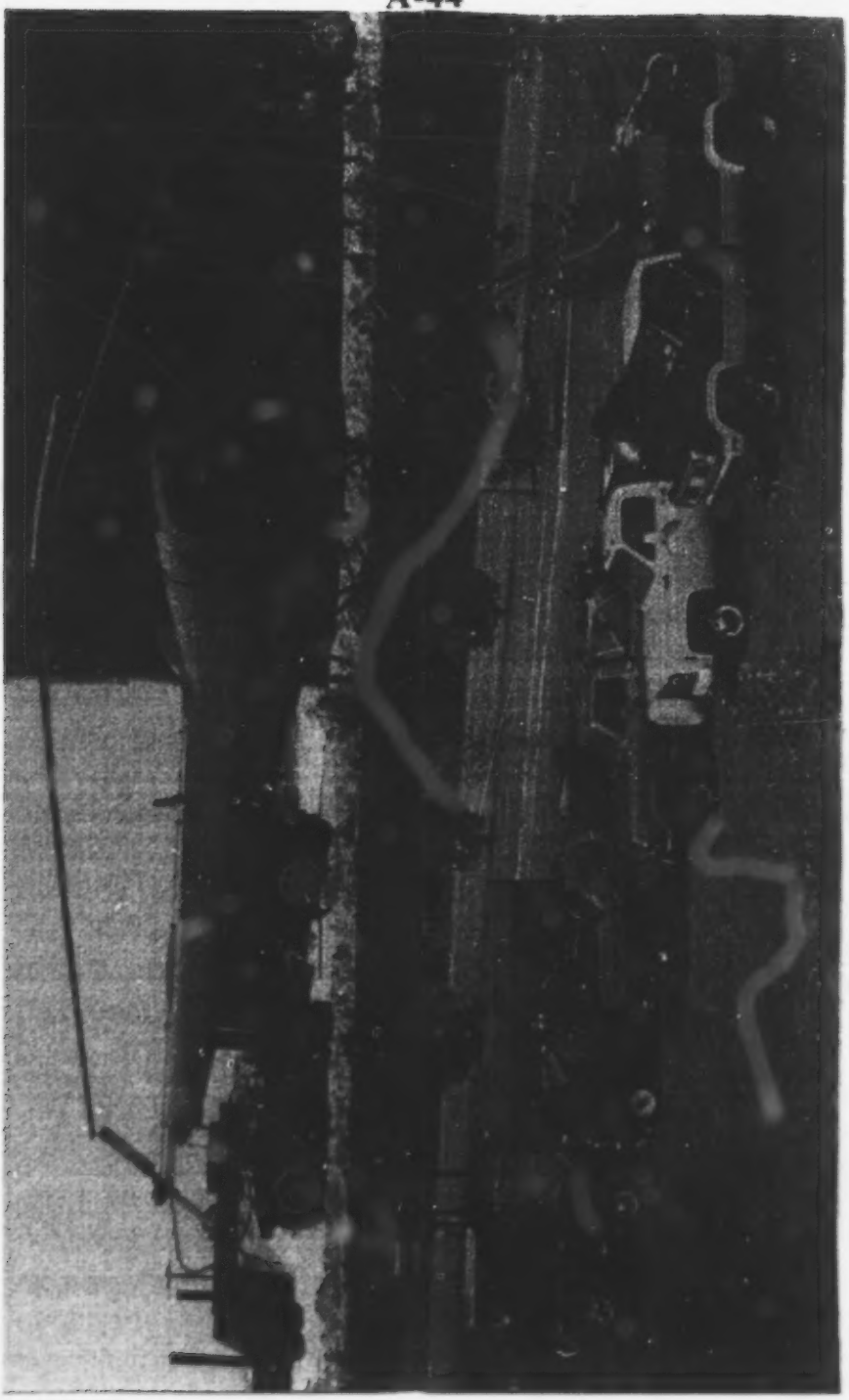
Additional requirements for vehicles with the characteristics needed for wildfire should be expected within the following groups:
*-U.S. Military - administrative functions and wildfire control. *-Airports - off-runway fire support. *-Utility companies. *-Oil and mineral exploration firms. *-National Resources Agencies for Forestry, Wildlife, Fisheries and Law Enforcement.

CONCLUSION

Wildland fire fighting requires specialized trucks which are capable of carrying full capacity loads off the road or at highway speed. The total fleet including municipal and rural agencies exceeds 25,000 vehicles with an average replacement schedule of 10 years. The wildland fire community is large with many trucks in use and, when considering uses in other endeavors, it bears marketing consideration.

We believe you will realize that the extent of this effort and the level at which it took place **shows the seriousness of our need**. Further information can be obtained by contacting study members (*See* App. A.). Comments concerning potential vehicle specifications should be forwarded to: Charles Norberg G.S.A. - FCAE CM 4 Room 422 Washington, D.C. 20406 703 557-0582. **Page # 8**

The end result of this National Engine Study **Plea,** was that it went unmet for neither the Ford F450/F550 nor GM's C4500 were engineered to fulfill U.S. Wildfire Truck Cab & Chassis Needs. All [due] to the special cupidity interests of Fire Managements, Engine Upfitters, and the USDA-FFS's San Dimas Technology & Development Center who would **not** agree on or permit GFT's **unified** Safety First—"Efficacy" Engine Standards.



A-45

SPEED MEMO

U.S. DEPARTMENT OF AGRICULTURE PART#1

TO: Quinn Owen **7/3/89**

FROM: Craig Phillips USDA-Forest Service
319 SW Pine, Portland, OR 97208

SUBJECT: EERA - Engines

MESSAGE 56-05H7-9-927

Enclosed is a listing of all Forests in Region 6.

If you are calling a Forest, just ask for Contracting and they will connect you with the right person.

If you have questions.

Give me a call at (503) 326-2809.

P.S. Just to affirm our conversation, you may sign your equipment on each Forest. We would hope that a Forest would share the EERA with all Forests. You are not assigned to any Forest.

"s/ C Phillips".

WASHINGTON STATE DEPARTMENT OF
Natural Resources DOUG SUTHERLAND
Commissioner of Public Lands

June 13, 2002

Mr. & Mrs Quinn R. Owen
Golden Fire Tech Associates, 33104[*sic*]-B Hwy 97
Oroville, WA 98844

Dear Mr. & Mrs Owen

I received your letter regarding contracting of private emergency suppression equipment. The Department of Natural Resources (DNR) utilizes private contractors during fire suppression activities. There are several ways for a private contractor to sign up with DNR in order to be called to assist during fire activity.

Since 1992, DNR, USDA Forest Service, and the Oregon Department of Forestry have entered into inter-agency agreements with private contractors for **engines, tenders, and crews for fire suppression services**. These contracts have been utilized extensively in Oregon and Washington since their

inception. As a part of this inter-agency cooperation, DNR urges private vendors to submit a bid during the annual solicitation for this contract. This can be a cumbersome process. However, once private contractors are signed up on this agreement, all seven of the wildland agencies in Oregon and Washington utilize these contractors for fire suppression activities.

DNR also enters into pre-season agreements with private contractors for **aircraft, dozers**, buses, kitchen units, shower units, and communication units. Although we prefer to have pre-season agreements with contractors, DNR often hires private contractors for fire suppression activities at the time of the fire depending on availability.

Please contact . . .

I really appreciate your continued interest in supporting the DNR and the wildland fire protection program.

Sincerely, "s/ Doug Sutherland ".

Commissioner of Public Lands

c: Pat McElroy, Executive Director of Regulatory Programs;
Mark Kahley, Resource Protection Division Manager;
John Viada, Northeast Region Manager.

1111 WASHINGTON ST SE; PO BOX 47000;
OLYMPIA, WA 98504-7000; FAX: (360) 902-1775;
TTY: (360) 902-1125; TEL: (360) 902-1000

FACTS: Doug as an ex Jumper/Hotshot, lacks suppression preference. The WA/OR Interagency Agreements **exclude aircraft and dozers.**

This is owing to the fact that aircraft and dozers lack **targeting ground crews which are essential to successfully attack or suppress a forest fire**.

TO STOP SUPPRESSION, REQUIRES EXCLUSIVE CONTRACT AND/OR DISPATCH CONTROL OVER TARGETING SUPPRESSION EQUIPMENT & CREWS.

United States Department of Agriculture
Forest Service
Okanogan/Wenatchee National Forests
215 Melody Lane
Wenatchee, WA 98801
TTY (509) 662-4396
Voice (509) 662-4335

File Code: 5100 Fire Management
Date: May 24, 2002

Mr. Casey Smith
193 Twisp Carlton Road
Carlton, WA 98814

Dear Sir:

In your letter dated May 14, you asked why private contractors are being denied attendance at the S-130 and S-190 courses held June 17-19.

In response, the Pacific Northwest Wildfire Coordination Group (PNWCG) issued **policy in 1993** that stated member agencies were **not** to provide training to private sector personnel.
The policy was reinforced by PNWCG **in 1994.**

The exception is if a PNWCG agency member is sponsoring the contractor while attending local area training then it is acceptable for that individual to participate in that specific course.

The policy does not cover courses sponsored by community colleges where government employees may be instructing community college wildfire courses that contractor personnel may attend. We Believe S-130 and S-190 may be available at Wenatchee Valley College.

If you have further questions or comments, please contact Rand Karpral at 509-662-4393.

"s/ Karin Whitehall ".
Acting Fire Management Officer

FACTS: Engine and/or suppression courses are **not** available at colleges. The Petitioners' qualifications consist of: **1.** Years of forestry experience.
2. Rural Fire Department training & experience.
3. DNR & FFS guard schools that **were all freely shared and available for privates before 1992.**

Since 1992 PNWCG/Region-6 offered lucrative interagency bid contracts to EERA privates who:
A. Agreed to be a limited Region-6 resource, with their primary utilization as a **PR** engine moping up smokes after the Hotshot's back burns & burn outs.
B. Passed equipment inspections devised for low suppression capabilities, in support of Fire Use.
C. Had a Task Book certified/signed by an agency sponsor, or to lie.

The Petitioners would not lie, and would not limit their services to Region-6. Which is why they never signed on as Region-6 contractors, & remain Common-law Volunteer/non-biding Firefighters.

General Message September 1994

To Reinforce Interagency Fire Organization Equipment Guidelines

1. Once equipment is dispatched to a fire, Finance or Contracting can not arbitrarily change the equipments availability or 24 hr. status. This authority and assignment lies entirely with the Planning Section - Resource Unit.

2. Any deployment of an unassigned piece of equipment by a Division Supervisor must be radioed into the Planning Section or Resource Unit A.S.A.P.

3. All contracts or EERA accepted in writing at fire check in, must be honored by Finance.

4. All time card signatures of Division Supervisors, Strike Team Leaders, and Fire Overhead Personnel, have the same validity as full time Forest Service personnel.

5. The planning Section will note any 24 hr. equipment change to a single shift status - in the shift plans.

6. The deployment of equipment from single shift to 24 hr. Will require travel pay for the second shift personnel.

7. It is recommended if not required that all 24 hr. Equipment be at Staging or a D.P. during shift change. The use of a crew vehicle shall be used to facilitate a timely and efficient Shift Change. These crew vehicles will be compensated for, by a mileage allotment.

These above noted guidelines and rules have been in use and adhered to in most State and Federal fires. However, they need to be implemented in a more formal and concrete Interagency format so that new personnel, both private and government, know what is expected, in an effort to eliminate confusion and conflict.

It is suggested that the guidelines (1-7) be written down in a format that is acceptable to your agency and all fire personnel receive a copy.

This General Message presented by Mr. Owen in 1994, was ignored by Fire Management, and it's requests for planned unity and fairness are omitted or denied in Region 6's New Agreements. *See* Pg.9.
Note: There are **no** Suppression Officers, only Fire Management Officers owing to management avidity.
Only foresters or local Citizens have a livelihood or fiscally vested interest to suppress the fire out.

A-50

GM TRUCK GROUP UPFITTER INTEGRATION

General Motors Truck Group
Upfitter Integration
Troy Technology Park South, Building A
1996 Technology Drive
Troy, MI 48083-4247

Dear Quinn,

Further to our conversation of the 2nd November 1998 concerning my attendance at the meeting on the 5th November, I will have to decline your kind invitation (this time) but as to GM's interest in supplying a base vehicles that can be purchased with the intent of it being upfitted into a fire truck. This is something I wish to pursue.

As we have discussed in the recent past the new C/K GMT 800 chassis cab would be a perfect base vehicle for this application.

The best way to approach this would be, that you and your compatriots in the Fire Truck Industry put together an **uniform proposal** listing your combined needs, envisioned sales and cost perimeters, then I can formally submit a request for change in the program.

The easiest way to format the revisions would be as a RPO package that can be added to the base vehicle this would keep both engineering and vehicles cost down.

As always, if you have any questions feel free to call me at (248) 680-5104.

Best Regards, David Allen

During the National Fire Protection Associations' Standards Task Group meeting on Nov. 5th 1998 in Los Angeles CA, there was USDA/USDI regional opposition to the **uniform standards needed** for Safe Wildland Engines & GM's cab-chassis support. Thus the U.S. Wildfire Truck Needs stayed denied.

08/05/00 12:51 FAX 5094222014 OKANOGAN N.F.

United States Department of Agriculture — Forest Service — **Regional Office** 333 S.W. First Ave. Portland, OR 97208

File Code: 5100 **Date:** June 28, 2000

Subject: Preparedness Resources

To: Forest Supervisors, Fire Management Officers, and Contracting Officers

The Forests recently received additional Preparedness funding which is to be used to argument initial attack resources. Distribution of these funds occurred late in the hiring season and many of the units are experiencing difficulty finding adequate applicant pools to staff agency engines or suppression crews.

It has been brought to our attention that some of the forests would like to solicit short term (2month) contracts with private vendors to provide engines and crews for this fire season. **UNDER NO CIRCUMSTANCES SHOULD FORESTS DEVELOP INDIVIDUAL CONTRACTS FOR SUPPRESSION RESOURCES THAT CAN BE OBTAINED VIA THE INTERAGENCY CREW AND ENGINE/TENDER AGREEMENTS**. These Agreements were specifically developed to provide emergency services for: preparedness, initial attack, suppression, and mop up of wildfires within the states of Oregon and Washington. The region and cooperation agencies have considerable time and money invested in development of agreements and verification that these resources meet mandatory training and performance standards. Issuing contracts for like resources could subject the agency to unnecessary litigation and congressional reviews.

Please follow established Agreement procedures when utilizing these resources. Some items to note from the Agreement are: . . .

*. . . **Crews must be resource ordered through the established Host Units.**

This is an excellent opportunity to minimize administrative impacts to our agency during this fire season and to utilize these resources for their intended purpose. Thank you for your cooperation.

/s/Mike Edrington
MIKE EDRINGTON
Director, Fire and Aviation Management

/s/Deborah Duperon (for)
MIKE WOLFE
Director, Property and Procurement

"THIS IS AN EXCELLENT OPPORTUNITY TO MINIMIZE ADMINISTRATIVE IMPACTS TO OUR AGENCY **[OURSELVES]** DURING THIS FIRE SEASON AND TO UTILIZE THESE **[REGION-6]** RESOURCES FOR THEIR **[OUR]** INTENDED PURPOSE." **[TO RAISE OUR PAY]**
"THANK YOU FOR YOUR COOPERATION"
[IN MINIMIZING CONGRESSIONAL REVIEW]

It was this letter that was faxed to GFT from Okanogan N.F., to explain why they **would not** release GFT to Montana. In the Contract Officers words he answered: "I am taking the broadest interpretation of the **BOLD PRINT CAPITALS**."

With lack of agency suppression & initial attack crews, Region-6 ordered **NO** private/**INDIVIDUAL CONTRACTS.** Thus refusing to share, Region-6 used the initial attack funds for **their** promotion.

As on 8/5/00, On 8/15/03 the news reported that Montana Region-1 is *"screaming"* for Suppression Crews. And again Region-6 will not answer with Initial Attack or Suppression Resources.

Rather Region-6 chooses to use **their Overhead, to manage their make work Wildland Fire Use,** (Backfire, Burnout) **and Implementation Resources.**

United States Department of Agriculture
Pacific Northwest Region 6
Okanogan/Wenatchee National Forests
Okanogan Valley Office 98840
1240 S. 2nd Ave Okanogan, WA (509) 826-3275

File Code: 6320

Subject: Owen's Okanogan Engine/Crew letter dated 9-27-00

Date: October 17, 2000

To: Quinn Owen
33014 B. Hwy 97
Oroville, WA 98844

COPY OF ORIGINAL

Dear Mr. Owen:

In reference to your letter dated 9/27/00. It has been determined that you failed to certify your claim per Federal Acquisition Regulation (FAR) 33.207(a). While I am not obligated to render a final decision in the absence of a certification, I believe that it would be a more productive use of time from both our perspectives to state that your request for compensation in the amount of $215,927 **is denied**.

The placement of and[*sic*] Emergency Rental Agreement (EERA) does not commit the Government to use your equipment. The general clause introduction found in your EERA states that "Since the equipment needs of the Government and availability of Contractor's equipment during an emergency cannot be determined in advance, it is mutually agreed that, upon request of the Government, the Contractor shall furnish the equipment listed herein to the extent the Contractor is willing and able at the time of order." The Government did not request your equipment during this past fire season. As the referenced EERA is only an agreement, it falls under Subpart 16.7 of the FAR, which explicitly states that "A basic agreement is not a contract." It only becomes a binding contract when the Government orders or offers work and the Contractor accepts. Therefore, as your agreement is not a

contract, it is not recognizable under the Contract Disputes Act of 1978 nor under Public Law 85-804.

Your letter requested compensation for ". . .Engines not dispatched, shared or used." this basis for compensation and claims against the government is unfounded, just as it would be unfounded and unenforceable for the government to force an EERA holder to accept an order or assignment for equipment rental use, and if the Contractor failed to comply, seek damages from that Contractor. Such is the language of the agreement as stated above that you agreed upon by signing your EERA on 8/1/00.

This scenario is not valid owing to the fact that the DNR was sued for not promptly responding to a wildfire that subsequently burned private homes. One result was the requirement for all Region-6 EERA engines to purchase liability insurance with the Government named as the insured.

Orders are placed using a combination of the closest, available resources, at the most reasonable price. It is further a requirement of Region 6, Oregon and Washington in the US Forest Service, that contractors awarded a Region 6 agreement shall be considered first when available and should replace local resources at the earliest convenience. These agreements are competitively solicited and prices are determined to be fair and reasonable, again, based on the ordering procedure that the closest, available resources, at the most reasonable price would be ordered first.

On review of your EERA, the higher than the average market price offered on your Type 6 and Type 5 Engines was noted. Established standard rates for fire season 2000 for Type 6 engines are $69.80

per hour compared to your $112 per hour rate; Type 5 Engines standard rate is $75.00 per hour compared to your $115 per hour rate. The standard rates are based on an average of the Region 6 engine prices and with many other lower priced engines to select it is likely that your engine was not selected due to price. It is highly recommended that you consider adjusting your offered prices on your agreement to a lower level thus making your equipment more competitive and hence more available.

For clarification, it is not the intent or desire of the Okanogan/Wenatchee National Forest to in anyway discriminate or prejudice any emergency orders related to wildfires. Your responsiveness and willingness to provide equipment when requested in the past is greatly appreciated. Further it is hoped that you will continue your support in the future.

If you have any questions relating to this response, please call me at (509) 826-3073.

Encls. "s/ Mark T. Phillipp ".
Contracting Officer

Cc: Carol Ford RO
Kris Bellini-OKA
Salley Michael - OKA

FACTS why Mark's **denial excuses** are not valid:
1. GFT's plea was for release to Montana, where there were 210 outstanding orders for engines.
2. All of Region-6's agreements had already been deployed, and thus there was **no** competing conflict.
3. Price is not the reason GFT was denied, as the EERA's standard **work rate** is half of Region-6's bid rate, & half the FFS's **standby cost.** *See* A-56.
4. The reasons are their desire to control & their imprisoning interpretation of Region-6's order that **Under no circumstances should Forests develop individual contracts for Suppression Resources**....

United States Forest Department of Service Agriculture	Pacific Northwest Region	333 SW 1st Ave. P.O. Box 3623 Portland, OR 97208-3623

File Code: 6320 **Date:** June 25, 2002
Route To:

Subject: Interagency Engine and Tender Agreement
To: Engine and Tender Contractors . . .
The market indicates the fair and reasonable not to exceed amount for the equipment requested is as follows: Type 6 and 7 Engines $150.00
Type 4 and 5 Engines $170.00
. . . Equipment exceeding these amounts will not be included in the dispatch process . . .

"s/ MONTY L BELL".
Contracting Officer (503) 808-2384

Some agencies **without restriction** charge the U.S. Treasury $250+ **a work hr.** for their like Engines. Going by NCFFA estimate in 1992, it cost $173.60 hr. for a FFS Engine **all season long on stand-by**.

[*30-Mile Deaths*]

30-Mile Incident, Okanogan N.F.
Interview w/Elton Thomas
As transcribed from tape

I feel that under the leadership that, Sonny and Allen have provided to the Forest that I have a lot of discretion to act on their behalf as a Program Manager and I take that very seriously. My father was an FMO on the LaGrande R.D. on the Wallowa-Whitman N.F. and I guess I came to this job having a lot of vicarious experiences before I even joined the Forest Service. I believe in the strong staff role

but **I know separation between line and staff is clear on this Forest**. **The Line Officers are held responsible** and the Staff Officers provide good sound advice and counsel and ought to be held in a high standard in that regard. As Sonny probably told you we do pre-season reviews of each ranger district and **each unit that we supervise** out of the headquarters. **The Entiat Hot Shot Program**, the Smokejumper Program, the Helicopter Program, the Air Tanker Program, **and our Dispatch Center.. . .**

I have been Fire Staff now, I think since June of 1999. Prior to that I was the Natural Resource Staff going back to 1991. I'm a PSCI on a National IMT in Region 6, and this will be my fourth year. Whenever we get a fire start, the deputy his name is Bruce Keleman and **I decide how we are going to support that incident** and sometimes he goes and sometimes I go, but in any case one of us will go . . . When, I was selected to be the Fire Management Officer, Sonny asked me what I want to focus on. I didn't know at the time that we were going to be combining with Okanogan that came a little bit later. **I told him that from my perspective** we had a well-oiled suppression machine. We have been doing that for a long time people knew their jobs, this is for the Wenatchee portion, and **didn't feel we needed to do anything different**, to just play at the top of our game. **The thing I felt we were weakest in was our Fuels Management Program and we needed to do more in that area. Coinciding with that, last year we got the National Fire Plan, which provided for us another great opportunity to move that program forward.** At the same time I felt like we were missing an opportunity by not having an approved Fire Management Plan consistent with the 1995 policy that would allow us to pursue Fire Use for resource benefits. I think **I provided a**

catalyst to bring people together to decide how we were going to approach Fire Use. Working with the National Park Service and some other agencies we initiated a major effort to undertake Fire Use for the entire 4 million acres of the two Forests. It was a big undertaking but until that time we had been pecking around at wilderness areas primarily. Our thrust was to complete that level of planning that was very detailed. . . .

In the center portion we would have Fire Use Chapter that would have seven component - parts. That would represent **"go/no go" decisions** and how we would prepare WFIP's **(Implementation Plans)** and implement this process for each ranger district. We have just completed all the planning necessary for **"G" codes and approval from the Regional Office.** . . . We have a very detailed risk assessment. **I'm confident that we can implement with a very high certainty a Fire Use Program across the entire land base. Politically we may not be able to do that**, . . .

We will have a component of it that very few, if any other Forests have and that is Fire Use for every ranger district. And I say that because in heart I believe it to be true and it was confirmed by Regional Office that no one in any part of the country have done this level of planning. I'm proud of that and we are serious about doing fire in an integrated way. **I think made some real headway in dealing with our fuels opportunities we had 3.5 million dollars Fuels Program this year. I want to double that program in years to come.**

We hired roughly another 33% to get to MEL.

. . . [*"Management Employment Levels"*] . . .

Our focus was on working through the **Wildland Fire Implementation Plan,**. . .Pg.5 End of Interview.

Memorandum of Record
Subject: Interview of Eric Nichols
Date: 22 July, 2001
Interviewer: Tony Kern

This interview focused on Eric's role on Action 103 on the night July 9th. Eric reported that he was sent with Shaun Rambo to wake up the IHC crew at the High School and lead them to the fire.

He said that his truck had a Mark 3 pump, wye gates, nozzles and over 1000 feet of hose when they got to the fire, and that upon arrival Schmeckel had briefed Nichols, Rambo + five that they could "get a pump show going" to assist the IHC crew. Nichols stated that when he arrived that

"The ground was flat, the fire was by the road, and there was a river right next to it.

It was a firefighters dream, but the Hotshot Superintendent said he didn't need us and sent us away.

When I heard that the fire got away the next day, I just had to wonder, if we had gotten that water show going . . ."

No other relevant or contributing information was recorded. Please place this memorandum as a portion of the official documentation for the investigation.

"s/ Tony Kern ". "s/ Eric Nichols 7-25-01 ".
Interviewer

THE **"IN-HOUSE"** INVESTIGATIONS (*MANAGEMENT INVESTIGATING MANAGEMENT*) WERE ALL PERFORMED WITH CONFLICT OF INTEREST, AND/OR INFIELD **IN**EXPERIENCE!.

A-60

Mail Tribune, Monday, July 29, 2002

TRUCK FALLS DOWN SLOPE KILLING THREE

BY Jeff Barnard

The Associated Press

HAPPY CAMP, Calif. — Three firefighters were killed and two others injured early Sunday when a U.S. Forest Service wildland fire engine patrolling the perimeter of a wildfire on the Klamath National Forest drove off a logging road in the dark and rolled 800 feet down a mountainside.

The engine crew based on the Lassen National Forest in Susanville was helping to watch over a 500-acre backfire set during the night to help contain the 1,350-acre Stanza Fire 10 miles south of Happy Camp when one wheel went off the narrow gravel road at about 1:30 a.m. and the truck plunged down the steep slope, said Forest Service Incident Commander Howard Carlson. "It was going straight down the road on patrol," when it went off the road, Carlson said.

See **TRUCK**, Page 12A

INCIDENT FACTS:

1. Truck was built top heavy with a wide body, and long wheel base.

2. Truck was built as a compromised crew engine.

3. Truck was built **without** any of the 1988 **National** Wildfire Truck Efficacy/Safety Standards.

4. Truck was manned by USDA-FFS personnel with Task Book Schooling, and **without** the infield livelihood experience of Foresters and/or Farmers.

5. Truck elected to make OT work patrolling a 500 acre backfire ? artificially and intentionally set by USDA-FFS Hotshots in promotion of Fire Use and/or **The Wildland Fire Implementation Plans.**

A-61

SOUR BISCUIT FIRE ZONE 1
INCIDENT ACTION PLAN

Siskiyou National Forest Florence - OR-SIF-003; P65833 (0611); P131, Sour Biscuit - OR-SIF 005; P65836 (0611); P150.

MONDAY-TUESDAY **5-6 AUGUST 2002**
NIGHT OPERATIONS 1800-0600
Lohery's Pacific Northwest #2 Type I
Incident Management Team www.PNW-TEAM2.com

DIVISION ASSIGNMENT LIST: **1.** Branch **III**
2. Division/Group C-K **IGNITION GROUP . . .**
7. Control Operations **PROCEED WITH FIRING IN DIV. H AND CONTINUE SOUTH, AS LINE BUILDING AND CONDITIONS ALLOW.**
Prepared by (Resource Unit Ldr.) "s/Shari Miller".for
Approved by (planning Sect, Ch.) **Elton Thomas**
"s/Shari Miller"; Date 5, August 2002; Time 14:12.

BISCUIT FIRE ZONE 1
INCIDENT ACTION PLAN
NIGHT OPERATIONS
SUNDAY-MONDAY-**18-19 AUGUST 2002**

DIVISION ASSIGNMENT LIST: **1.** Branch **I-IV**
2. Division/Group **BURNING GROUP NORTH. . .**
7. Control Operations **CONTINUE BURNING FROM DP 12 NORTH**
8. Special Instructions ***DIVISION SUPERVISORS NEED TO COORDINATE INTERIOR BURNING (AERIAL IGNITION) WITH AIR ATTACK. . . .**
Approved by (Planning Sect. Ch.)"s/Paul Summerfelt"

ALL OF THE ARTIFICIAL FIRE ON THE 747 AND BISCUIT WAS IGNITED WITHOUT FIRE SUPPRESSION EFFORT OR FIRE SUPPRESSION SAFETY, LEAVING 460,000+ ACRES BURNED!
Fact: Region-6 Ceased All Waterhandling Crews!

The Wenatchee World Tuesday, August 20, 2002

Smokey has 'grittier, darker' message—and a rival

AP photos

An old-style Smokey Bear photo, left, warns about preventing forest fires. Although the message has been changed to say "wildfires," it's still not strong enough for Reddy Squirrel, right, who says no one can prevent forest fires, so be prepared.

Dale of Forest Service Employees for Environmental Ethics, the group that created the cheeky mascot.

"They're going to happen and they're especially going to happen if people build in these urban-wildland interface areas."

REGION-6'S EMPLOYEES WARN THE PUBLIC TO **NOT** BUILD IN THE URBAN-WILDLAND !
THIS SPECIAL INTEREST LAND CONTROL GROUP WOULD RATHER BURN OUR LAND WITH THEIR **WILDLAND FIRE USE/IMPLEMENTATION PLAN,** THAN ALLOW COMMON-LAW CITIZENS TO SHARE, PROSPER, TAKE CARE OF AND/OR LIVE IN OUR URBAN-WILDLAND INTERFACE AREAS.

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Smokey has 'grittier, darker' message—and a rival

Dale and his group BELIEVE THAT DECADES OF FIRE SUPPRESSION by the Forest Service led to the build-up of deadwood and underbrush below the forest canopy, providing the perfect fuel for the massive fires now scorching the West. The best thing homeowners can do now is focus on preparation, not prevention, he said.

Smokey's new campaign stresses the idea of "good fire" vs. "bad fire" and even discusses the benefits of lighting controlled fires to thin forests ripe for ignition, a deviation from Smokey's original creed. ...

A group of government agencies has developed a Web site to promote what is calls the **Fire Use Message**, and hopes to take it public soon, said Colin Hardy, a researcher with Missoula Fire Science Lab...

FACTS: The Wildland Fire Use/Implementation Plans are based on the assumption that **forest fires naturally recur?** Naturally recurring fires are found **only** in semi arid forests with southern exposures prone to dry lightning. **Forest Fires are due to:**
1. Man **artificially** causing 85% of all fires!
2. FFS's abandonment of second growth causing an **artificial** fuel buildup. If decades of initial attack FIRE SUPPRESSION worked before, why not today?
3. FFS's tank trapping/closing roads, and setting prescribed wildfires that prevent the needed thinning and productive care of second growth. Why? As all pulp millwrights & rad-environmentalists know once burned the "evil"? of logging is unprofitable/denied.
4. Today fires are owing to man, and/or the FFS's elimination of Water Handling Crews who now Implement, Use, Project Ignite, and/or fraudulently Fight Fire with Fire after an onus/blamable ignition.

LOCAL FIREMEN WONDER WHY FOREST SERVICE NEVER CALLED

Mail Tribune, Friday, August 2, 2002

By Robert Weller, The Associated Press

DENVER — When the biggest wilfires Colorado and Arizona have ever seen erupted early this year, hundreds of local firefighters sat idle as the U.S. Forest Service sent in its own teams.

Some nearby fire departments were called later; some never got the call as the blazes raged for weeks and destroyed 600 homes.

"We offered our assistance and were turned down, as were other departments," said Fire Chief Ben Owens of Show Low, Ariz., which was evacuated but spared during the fire. "When it was small, we might have been able to make a difference. On the second day, the fire was at our back door."

It is not clear whether calling in more firefighters at the start really would have made a difference. But the Forest Service's mobilization practices have come under scrutiny in the aftermath of the two disasters.

Some questions whether the agency is relying too heavily on its own crews at a time when more and more people are living near forests and severe drought has made it critical to hit fires hard when they break out.

Rep. J.D. Hayworth R-Ariz., wants to conduct congressional hearings to learn why the Forest Service did not draw more on local firefighters in the initial attack on the Arizona blaze, which burned 469,000 acres and destroyed at least 467 homes. At its peak, there were more than 4,400 firefighters on the fire.

"I don't want to say that what I am hearing is rage. It is more like legitimate questions," Hayworth said. "They want to know how much better it could have been if they had been involved early."

Forest Service spokesman Joe Walsh said it is too soon to say whether calling in more firefighters would have made a difference. But he said the agency will review decisions made on both fires.

The Forest Service has nearly 12,200 firefighters who are federal employees or employees of companies under contract to the agency.

It also has available 11,500 state and local firefighters and support workers who have been trained and certified by the agency to work on wildfires.

In the case of the Arizona and Colorado fires, Walsh said some local firefighters may not have been certified to fight wildfires.

CERTIFIED PERFORMANCE/EXPERIENCE ON WILDFIRES COUNTS ONLY WITH THE QUID PRO QUO OF AN AGENCY SPONSOR. *see* A-47

Local initial-attack and/or response to a wildfire use-to-be based entirely on the Common-law custom and ability of the Volunteer Firefighter to respond.

Today if a Common-law Volunteer Firefighter responds (without FFS order and request numbers) to a FFS fire, he/she will not only **not** be paid, but will also be escorted away by the FFS's Police.

All kindly paid for by you and me.

SAFETY AND/OR SECURITY DOES **NOT** LIE IN FIRE USE, OR WHO SIGNED OFF ON THE FOREST SERVICE'S CERTIFIED TASK BOOK.

SAFETY AND SECURITY LIES ENTIRELY WITH EXPERIENCE & THE EFFICACY INITIAL ATTACK ABILITY OF THE LOCAL COMMON-LAW FIREFIGHTER TO PUT THE FIRE OUT.

PROPOSAL: SPECIFIC PERFORMANCE REMEDY

MANAGEMENT THIEFDOM IS THE CRIME

The factors control/enabling management crimes are:

1. TREASURY **[Unlimited Emergency Funding]**
2. CONGRESS [Electoral/Special Interest Funding]
3. SECRETARY [Uninformed Political Policies]
4. COUNCIL [Cover-up with Bad Faith Process]

No factor possess the infield experience, and/or understanding that is ESSENTIAL for proper charge of unified safety standards that Care For The Land, and Provide Productive Jobs FOR THE PEOPLE.

FUNDED JUSTICE IS THE NEEDED REMEDY

In discussions with GM, GFT was informed that to engineer the Truck and incorporate an assembly line for producing the needs of a True Wildland Cab Chassis, it would cost GM a Billion or more.

Properly carrying for the millions of acres of abandoned/overgrown 2nd growth, will cost Billions.

GFT's Proposed Remedy is by contracting the experience & understanding of GFT & Associates who set Uniform Efficacy/Safety Standards & fund Natural Resource Care with renewable bank/bond interest or market income from the Venue and Jurisdictional Management of Idle Treasury Values.

By contract, these Idle [Real Security] Treasury Values would become marketable as Futures, or to lending institutions who are required to retain a percentage of [Real Securities] to cover their paper.

In most cases, secured venue is an added cost to the institutions. By retaining venue and selling jurisdictional ownership only to **U.S.** institutions, the Government via GFT would retain U.S. control.

All thus providing Care For Our Lands, Fire Security For Citizens and Fruitful Jobs, and/or Justice For the General Welfare of the People.

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GFT GOLDEN FIRE TECH
Quinn & Ann Owen
33014 B Hwy 97
Oroville, WA 98844
[509] 476-3361

FAX TO: DON MANN (509) 664-2745
USDA FOREST SERVICE
OKANOGAN-WENATCHEE NATIONAL FORESTS
215 Melody Lane
Wenatchee, Washington 98801

FROM: Quinn R. Owen (509) 476-3361

Dear Don in reference to our 7/25/02 conversation, please send/mail to the address above, documentation on the New EERA Contracting Policy, that no longer allows for and/or limits the contracting of local EERA-Engines, Suppression Resources.

Please include the specific details of the following:

1. Who was involved in making this decision/policy,
2. What decision/policy specifically was made,
3. When the decision/policy was made, and put in place,
4. Where this decision is effective,
5. And why this decision/policy was made.

Further; Who was the U.S. legal council if any, that signed off on this new policy.

THANK YOU FOR YOUR COOPERATION!

Sincerely

"s/ Quinn R. Owen ". 7/25/02

United States Department of Agriculture
Forest Service
Okanogan/Wenatchee National Forests
215 Melody Lane
Wenatchee, WA 98801
TTY (509) 662-4396
Voice (509) 662-4335

File Code: 6270
Date: August 2, 2002

GFT Golden Fire Tech
Mr. Quinn R. Owen
33014 B Hwy. 97
Oroville, WA 98844

Re: **Freedom of Information Act (FLOA) Request No. R6-17-02-28**

Dear Mr. Owen:

This letter is in response to your Freedom of Information Act Request received in this office via fax on July 25, 2002, addressed to Don Mann, in which you have requested information and documentation of the "new EERA contracting policy that no longer allows for and/or limits the contracting of local EERA-engines and suppression resources."

We are forwarding your request to the Regional Forester for further review and processing.

If you have questions regarding your request, you may write me at the following address:

Okanogan and Wenatchee National Forest
215 Melody Lane
Wenatchee, WA 98826
Attn: Susan Carter

Sincerely, "s/ Susan L. Carter ".
Environmental Affairs Coordinator

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United States Department of Agriculture | Forest Service | Okanogan/Wenatchee National Forests
215 Melody Lane
Wenatchee, WA 98801
TTY (509) 662-4396
Voice (509) 662-4335

File Code: 6320
Date: September 03, 2002

GFT Golden Fire Tech
Mr. Quinn R. Owen
33014 B Hwy. 97
Oroville, WA 98844

Dear Mr. Owen:

I have been advised by my attorneys to not answer your questions (see your letter dated 07/25/02 and Susan M. Zike letter dated 08/28/02) pending the resolution of current litigation, i.e., *Mr. And Mrs. Owen vs. USDA — Okanogan NFS.*

I have also been advised to ask that you have your attorneys contact the respective government attorneys if you have questions regarding the issues you raised in your letter.

Respectively yours, "s/ Donald L. Mann ".
Supervisory Contracting Officer
Eastern Washington Acquisition Group

"Caring for their? Land & Serving Themselves?"
Apparently even the Freedom of Information Act can be ignored by Government Counsel who with sovereign immunity can cover-up/deny the Citizen's *retained* right to public or co-owned information.
All obstructed justice by lawyers who impose bad faith fettering **un**due process that they fraudulently utilize to conceal public or heritage information.

RELEVANT FRAUD/CRIME DEFINITIONS

FRAUD — PROFITING FROM:
THE MISLEAD OF FIREFIGHTING;
THE MISLEAD OF SERVING THE PEOPLE;
THE MISLEAD OF CARING FOR THE LAND;
THE MISLEAD OF LAWFULLY OWNING THE SOLE-OWNERSHIP RIGHT TO INFORMATION.

OBSTRUCTION OF JUSTICE — UTILIZING THE ATTORNEY CLIENT PRIVILEGE TO HIDE/ MASK PUBLIC OR HERITAGE INFORMATION.

OFFICIAL MISCONDUCT OF DUTY & OATH — HE INTENTIONALLY REFRAINS FROM, SUPPORTING THE U.S. CONSTITUTION AND WA CONSTITUTION, AND/OR HE COMMITS THE UNAUTHORIZED ACT OF RULING, COUNSELING, PROSECUTING OR DEFENDING WITH LAW THAT IS INCONSISTENT WITH AND/OR DOES NOT SUPPORT THE SUPREME LAWS OR CONSTITUTIONS OF THE LAND;

— HE INTENTIONALLY REFRAINS FROM, SUPPORTING OR SECURING THE BLESSINGS OF LIBERTY, AND/OR HE REFRAINS FROM PROMOTING THE GENERAL WELFARE OF U.S. CITIZENS AND THEIR POSTERITY;

— HE INTENTIONALLY REFRAINS FROM, PROTECTING & MAINTAINING INDIVIDUAL RIGHTS OF COMMON-LAW AND/OR EQUITY.

See A-31> RCW 9A.80.010 **Official Misconduct.**

SUMMARY OF PROVISIONS AND EVIDENCE

The Constitution is the service contract obligating government to protect & maintain People's right to:
Article I #10 Unimpaired contract obligations;
Article III #2 Jurisdiction applied in Law & Equity;
Article IV #2 Joint privileges of Citizens of states;
Article IV #4 Guaranteed republican form of Gov.;
Amend V Due-process for life, liberty, & property;
Amend VII Trial according to Common-law rules;
Amend IX Retained Common rights non-disparaged;

A Gov.'s regime of sovereign immunity impairs these contract obligations made to protect People & their justice right to a Common-Equity jurisdiction. Such a regime has no right to the Citizen's taxes.

Out of approx. 1.8 Billion Wildland Fire funds of Public Law 106-291, none supported the Safety of New Efficacy Suppression Equipment or Operations.

All supported higher **F**ire **M**anagement Income, Employment Levels, Foreign Hires, Fish/Wildlife, & New Fire Use/Implementation Equipment/Operations.

All fraud/crime committed against the Common-law/Equity Rights & General Welfare of the People.

All fraud/crime protected/imposed by law clerks and council without understanding of Equity/Justice.

Safety does not lie in FM's new misleads of Task Books, Aluminum Foil, Fusible Polyester Cloth, Ping Pong Ignitions, Fire Use/Implementation, Arduous Running or the Fear of Fire. **Safety as in the past,** lies in Truth, Unified Communications, Efficacy Fire Suppression Equipment, & Crews with Livelihood Experience & Need to Put the Fire Out.

Out of approximately One Million Firefighters in the U.S. Three-Fourths are Volunteer/Common-law Firefighters. All Fruitful Citizen Taxpayers With a Common-law **Vested Right to Put The Fire Out.**

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AFFIDAVIT TO TRUTH FOR PETITION

STATE OF WASHINGTON)
:SS
COUNTY OF OKANOGAN)

I QUINN R. OWEN do solemnly/truthfully affirm: I am a United States and Washington State Citizen:

1. I will support the Constitution of the United States and the Constitution of the state of Washington; I will employ for the purposes of maintaining the causes confided to me only as are consistent with good faith truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact, Law or Equity; So help me God; [*See* RCW 2.48.210]

2. I am the WA Article 1 #4 Petitioner of record for the Mr. & Mrs. Owen, & GFT et al. **v.** USDA/USDI-Region-6 & USDJ-ED of WA matter, and make this affidavit based on personal knowledge of admissible evidence, subject on request to cross-examination;

3. My quoted laws, authorities, statements, appendixes, or exhibits attached to this Petition for Writ of Mandamus are believed to be verbatim, with the exception of emphasis added **BOLD**, underlining, . . . noted ellipsis omissions, *Italics*, and/or [bordered notations]; With original or original copies available for court review.

Dated this 19 day of September, 2003

Quinn R Owen

Quinn R. Owen, Clean Hands Petitioner of Record
3514 B Hwy. 97 Oroville, WA 98844 509-476-3361

SUBSCRIBED & SWORN to before me this 19 day of September, 2003;

DENISE KRISTENSEN NOTARY PUBLIC STATE OF WASHINGTON Commission Expires JAN. 30, 2005

Denise Kristensen
NOTARY PUBLIC in/for the state of WA.
Residing at Oroville
My commission expires 1/30/05

" ***TO DISPARAGE EQUITY IS TO DENY JUSTICE*** "